




# भारत का राजपत्र The Gazette of India

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में  
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as  
a separate compilation

भाग II—खण्ड 3—उप-खण्ड (II)  
PART II—Section 3—Sub-Section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किये गये सांविधिक आदेश और अधिसूचनाएँ  
Statutory Orders and Notifications issued by the Ministries of the Government of India (other than  
the Ministry of Defence)

गृह मंत्रालय  
(राजभाषा विभाग)  
आदेश

नई दिल्ली, 23 फरवरी, 1993

का. आ. 769.—एक राजभाषा समिति, जिसमें लोक सभा के बीस सदस्य और राज्य सभा के दस सदस्य हैं, राजभाषा अधिनियम, 1963 (1963 का 19) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 के उपबंधों के अनुसार संघ के राजकीय प्रयोजनों के लिए हिन्दी के प्रयोग में हुई प्रगति के पुनर्विलोकन के लिए और उस पर राष्ट्रपति को एक रिपोर्ट अपनी सिफारिशों सहित प्रस्तुत करने के लिए गठित की गई थी, राजभाषा समिति ने राष्ट्रपति को अपनी रिपोर्ट का भाग 3 (अध्याय 1 से 18 और उपाबंध) 1989 में प्रस्तुत किया जिसमें अन्य बातों के साथ-साथ यह सिफारिश की थी कि औद्योगिक स्थापनों के ऐसे अधिकारियों और कर्मचारियों के लिए जिन्हें डेस्क कार्य की अपेक्षा की जाती है, हिन्दी में प्रशिक्षण प्राप्त करना आवश्यक होना चाहिए।

उक्त अधिनियम का धारा 4 की उपधारा (3) के उपबंधों के अनुसार उस रिपोर्ट को क्रमशः 13 अक्तूबर, 1969 और 17 दिसम्बर, 1989 को संसद के दोनों सदन के समक्ष रखा गया था और रिपोर्ट की प्रतियाँ सभी राज्य/संघ राज्य क्षेत्र सरकारों को भी भेजी गई थीं। चूंकि समिति की ये सिफारिशें केन्द्रीय सरकार के कर्मचारियों को हिन्दी प्रशिक्षण देने के लिए किए जाने वाले प्रबंधों से और हिन्दी माध्यम से प्रशिक्षण दिए जाने से संबंधित है, अतः विभिन्न मंत्रालयों/विभागों की राय भी प्राप्त की गई थी,

राज्य/संघ राज्यक्षेत्र सरकारों तथा विभिन्न मंत्रालयों/विभागों द्वारा इस संबंध में व्यक्त मतों पर विचार किया गया और इस सिफारिश को सिद्धान्त रूप से स्वीकार करते हुए 4 नवम्बर 1991 को संकल्प जारी किया गया।

अतः राष्ट्रपति, उक्त अधिनियम की धारा (4) की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निम्नलिखित निदेश देते हैं :—

(क) केन्द्रीय सरकार के स्वामित्वाधीन या नियंत्रणधीन

(1157)

औद्योगिक स्थापनों के कर्मचारियों के लिए हिन्दी में प्रशिक्षण की अनिवार्य किया जाए; तथापि

- (i) केन्द्रीय सरकारी कर्मचारियों के वर्गीकरण के समतुल्य (समूह "ग्रुप" से नीचे की श्रेणी के कर्मचारियों); (ii) निर्धारित कर्मचारीवृन्द (कार्यप्रभारित कर्मचारी); और (iii) ऐसे कर्मचारी जिनके लिए कोई शैक्षणिक अर्हताएं विहित नहीं की गई हैं और जो औद्योगिक/वाणिज्यिक स्थापनों या खानों में मुख्य रूप से शारीरिक/यांत्रिक कर्म में लगे हुए हैं, लागू नहीं होगा;
- (ख) विहित मानक प्राप्त करने में असफल रहने पर कोई शक्ति अधिरोपित नहीं की जाएगी;
- (ग) प्रशिक्षणार्थियों को हिन्दी प्रशिक्षण की सुविधाएं निःशुल्क प्रदान की जाए; और
- (2) केन्द्रीय सरकार के स्वामित्वाधीन या नियंत्रणाधीन सम्बद्ध औद्योगिक स्थापन अपने कर्मचारियों के प्रशिक्षण के खर्च स्वयं वहन करेंगे। तथापि हिन्दी शिक्षण योजना के अधीन चलाई जाने वाली हिन्दी कक्षाओं में तथा केन्द्रीय हिन्दी प्रशिक्षण संस्थान और उनके उप-संस्थानों द्वारा चलाये जा रहे पाठ्यक्रमों में उपलब्ध प्रतिरिक्त स्थानों के होने पर ऐसे कर्मचारियों को ऐसी कक्षाओं में प्रवेश दिया जाएगा और केन्द्रीय सरकार के स्वामित्वाधीन या नियंत्रणाधीन औद्योगिक स्थापनों से प्रशिक्षण के व्यय की प्रतिपूर्ति के लिए कोई मांग नहीं की जाएगी।

[सं. 11016/5/76-रा. भा. (घ)]

डा. सीताकान्त महापात्र, सचिव

MINISTRY OF HOME AFFAIRS

(Department of Official Language)

ORDER

New Delhi, the 23rd February, 1993

S.O. 769.—Whereas a Committee on Official Language, consisting of twenty members of the House of People and ten members of the Council of States, was constituted in accordance with the provisions of section 4 of the Official Languages Act, 1963 (19 of 1963), (hereinafter referred to as the said Act) to review the progress made in the use of Hindi for the official purpose of the Union and submit a report to the President making recommendations thereon;

And whereas the Committee on Official Language submitted Part-3 (Chapter 1 to 18 and annexures) of its report to the President in 1989 inter-alia recommending that training in Hindi should be obligatory for such officers and employees of the industrial establishments who are required to do the desk work;

And whereas in accordance with the provisions of sub-section (3) of section 4 of the said Act, the report was laid before both Houses of Parliament on 13th October and 27th December, 1989 respectively and copies of the report were

also sent to all the State/Union Territory Governments. Since the recommendations of the Committee are related to the arrangements to be made for Hindi Training of the Central Government employees and for imparting training through the Hindi medium, opinion of various Ministries/Departments was also obtained;

And whereas the views expressed by the State/Union Territory Governments and various Ministries/Departments in this regard were considered and Resolution accepting this recommendation in principle was issued on the 4th November, 1991;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 4 of the said Act, the President hereby directs that—

- (a) training in Hindi may be made compulsory for the employees of the industrial establishments owned or controlled by the Central Government. This will however, not apply to : (i) employees below Group 'C' Grade (comparable with the Central Government employee's classification), (ii) work-charged staff and (iii) employees for whom no academic qualifications have been prescribed and who are mainly engaged on manual/mechanical work in industrial/commercial establishments and mines;
- (b) no penalty shall be imposed for failure to obtain the prescribed standard;
- (c) facilities for Hindi training may be provided free of cost to the trainees; and
- (d) the concerned industrial establishments owned or controlled by the Central Government will bear the expenses of the training of their employees. However, subject to spare capacity being available in Hindi classes run under the Hindi Teaching Scheme as well as in the courses run by the Central Hindi Training Institute and in its sub-Institutes, such employees will be admitted to these classes without demanding the re-imbursement of the cost of training from the industrial establishments, owned or controlled by the Central Government.

[No. 11016/5/76-OL(D)]

DR. S. MAHAPATRA, Secy.

कार्मिक लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 30 मार्च, 1993

का. आ. 770 —केन्द्रीय सरकार, दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (i) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए आदेश सं. एम. यू. आर. 0292/102/पी. ओ. एल-II तारीख 22-2-93 द्वारा महाराष्ट्र राज्य सरकार (गृह विभाग, मुम्बई) की सहमति से, महावीर टावर, लाल बहादुर शास्त्री मार्ग, मुलन्द, मुम्बई में 3 जनवरी, 1992 को अजीत कुमार नायर की हत्या के संबंध में पुलिस थाना, मुलन्द, मुम्बई, महाराष्ट्र राज्य में रजिस्ट्रीकृत सी आर सं. 25/92, तारीख 8 जनवरी, 1992 को बाबत भारतीय दण्ड संहिता 1860 (1860 का अधिनियम सं. 45) की धारा 302 के अधीन अपराध के और उक्त अपराध के संबंध में और उससे संबंधित दृष्टिकोणों और घट्यंतों के वैसे ही तथ्यों से उर पन्न वैसे ही संयोजक के अनुक्रम में किए गए किसी अन्य

अपराध के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापन के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण महाराष्ट्र राज्य पर करती है।

[संख्या 228/27/93-ए. वी.-II]

ए. सी. शर्मा, अवसर सचिव

MINISTRY OF PERSONNEL, P.G. AND PENSIONS

(Department of Personnel &amp; Training)

New Delhi, the 30th March, 1993

S.O. 770.—In exercise of the powers conferred by sub-section (1) of Section 5 r/w Section 6 of the Delhi Special Police Establishment Act, 1946, (Act No. 25 of 1946) the Central Government with the consent of State Government of Maharashtra (Home Department Bombay) vide order No. MUR-0292/102/POL-11 dated 22-2-1993 hereby extends the powers and jurisdiction of the members of Delhi Special Police Establishment to the whole of the State of Maharashtra for investigation of offence u/s 302 of the Indian Penal Code, 1860 (Act No. 45 of 1860) and abetments and conspiracies in relation to and in connection with the said offence and any other offence committed in the course of the same transaction arising out of the same facts in regard to CR No. 25/92 dt. 8th January, 1992 registered with Police Station Mulund, Bombay, in Maharashtra State about the murder of Ajit Kumar Nair on 3rd January, 1992 at Mahavir Towers, Lal Bahadur Shastri Road, Mulund, Bombay.

[No. 228/27/93-AVD.II]

A. C. SHARMA, Under Secy.

नई दिल्ली, 31 मार्च, 1993

का. आ. 771.— केन्द्रीय सरकार, दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम संख्या 2) की धारा 24 की उपधारा (8) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, श्री एल. महापात्र, अधिवक्ता, भुवनेश्वर को, उड़ीसा के उच्च न्यायालय, कटक में श्री चितामणि पाड़ी और अन्य के विरुद्ध मामला संख्या आर. सी. 19/78-भुवनेश्वर का संचालन करने के लिए विशेष लो अभियोजक नियुक्त करती है।

[संख्या 225/15/92-ए. वी.जी.-II]

ए. सी. शर्मा, अवसर सचिव

New Delhi, the 31st March, 1993

S.O. 771.—In exercise of powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974) the Central Government hereby appoints Shri L. Mahapatra, Advocate Bhubaneswar as Special Public Prosecutor to conduct the case No. RC. 19/78-Bhubaneswar against Shri Chintamani Padhi and another in the High Court of Orissa at Cuttack.

[No. 225/15/92-AVD.II]

A. C. SHARMA, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 26 फरवरी, 1993

(आयकर)

का. आ. 772.— आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "गुजरात क्रिकेट एसोसिएशन, अहमदाबाद" को 1993-94 से 1995-96 तक के कर-निर्धारण वर्ष के लिए निम्नलिखित शर्तों के अधीन रखते हुए उक्त खंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

- (i) कर निर्धारिती उसकी आय का हस्तेमाल अथवा उसकी आय का हस्तेमाल करने के लिए उसका संचयन इस प्रकार के संचयन हेतु उक्त खंड (23) द्वारा यथा-संशोधित धारा 11 की उपधारा (2) तथा (3) के उपबंधों के अनुरूप पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है;
- (ii) कर-निर्धारिती उपर-उल्लिखित कर-निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु, जिसे उपर्युक्त खंड (23) के तीसरे परन्तुक के अधीन बौद्ध द्वारा अधिसूचित किया जाए, के रूप में प्राप्त तथा रख रखाव में स्वेच्छिक अंशदान से भिन्न का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;
- (iii) कर-निर्धारिती अपने सदस्यों को किसी भी तरीके से अपनी आय के किसी भाग का संचितरण अपने से संबद्ध किसी एसोसिएशन अथवा संस्था को अनुदान के अलावा नहीं करेगा; और
- (iv) यह अधिसूचना किसी ऐसी आय के संबद्ध में लागू नहीं होगी, जो कि कारोबार से प्राप्त लाभ तथा अभिलाभ हों जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्य की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसी कारोबार के संबंध में अलग से लेखा पुस्तिकाएँ नहीं रखी जाती हों।

[अधिसूचना सं. 9225/फा. सं. 196/4/93-  
आयकर नि.-1]

शरत चन्द्र, अवसर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 26th February, 1993

(INCOME-TAX)

S.O. 772.—In exercise of the powers conferred by clause (23) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Gujarat

Cricket Association Ahmedabad" for the purpose of the said clause for assessment years 1993-94 to 1995-96 subject to the following conditions namely :—

- (i) the assessee will apply its income or accumulate it for application, in consonance with the provisions of sub-section (2) and (3) of Section 11 as modified by the said clause (23) for such accumulation wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions, received and maintained in the form of jewellery, furniture or any other article as may be notified by the Board under the third provision to the aforesaid clause (23) for any period during the previous year(s) relevant to the assessment year(s) mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) the assessee will not distribute any part of its income in any manner to its members except as grants to any association or institution affiliated to it; and
- (iv) this notification will not apply in relation to income, being profits and gains of business unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 9225/F. No 196/4/93-ITA-I]

SHARAT CHANDRA, Under Secy.

नई दिल्ली, 1 मार्च, 1993

(आयकर)

का. आ. 773.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "वि विलियार्ड्स एण्ड स्नूकर फेडरेशन आफ इण्डिया, कलकत्ता को वर्ष 1990-91 से 1992-93 तक के कर निर्धारण वर्षों के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त खण्ड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

- (i) कर-निर्धारिती उसकी आय का हस्तेमाल अथवा उसकी आय का हस्तेमाल करने के लिए उसका संचयन इस प्रकार के संचयन हेतु उक्त खण्ड (23) द्वारा यथा संशोधित धारा 11 की उपधारा (2) की तथा (3) के उपबंधों के अनुरूप पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है;
- (ii) कर निर्धारिती उपर उल्लिखित कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जैवर जवाहिरात फर्नीचर अथवा किसी अन्य वस्तु, जिसे उपर्युक्त, खण्ड (23) के तीसरे परन्तुक के अधीन बोर्ड द्वारा अधिसूचित किया जाए, के रूप में प्राप्त रख-रखाव में स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा।

(iii) कर निर्धारिती अपने सदस्यों को किसी भी तरीके से अपनी आय के किसी भाग का संवितरण अपने से संबद्ध किसी एसोसिएशन अथवा संस्था को अनुदान के अलावा नहीं करेगा; और

(iv) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसी कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएँ नहीं रखी जाती हों।

[अधि. सं. 9231/फा. सं. 196/16/90-आ. कर (नि-1)]

शरत चन्द्र, अवर सचिव

New Delhi, the 1st March, 1993

(INCOME-TAX)

S.O. 773.—In exercise of the powers conferred by clause (23) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "The Billiards and Snooker Federation of India, Calcutta" for the purpose of the said clause for assessment years 1990-91 to 1992-93 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate it for application, in consonance with the provisions of sub-sections (2) and (3) of Section 11 as modified by the said clause (23) for such accumulation wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds other than voluntary contributions received and maintained in the form of jewellery, furniture or any other article as may be notified by the Board under the third provision to the aforesaid clause (23) for any period during the previous year(s) relevant to the assessment year(s) mentioned above other wise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) the assessee will not distribute any part of its income in any manner to its members except as grants to any association or institution affiliated to it; and
- (iv) this notification will not apply in relation to income, being profits and gains of business unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 9231/F. No. 196/16/90-ITA-I]

SHARAT CHANDRA, Under Secy.

नई दिल्ली, 1 मार्च, 1993

(आयकर)

का.आ. 774 :—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "दि मध्य प्रदेश पलाइंग क्लब लि., इंदौर" को वर्ष 1990-91 से 1992-93 तक के कर-निर्धारण वर्षों के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त खण्ड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

- (i) कर-निर्धारिती उसकी आय का हस्तेमाल अथवा उसकी आय का हस्तेमाल करने के लिए उसका

संचयन इस प्रकार के संचयन हेतु उक्त खण्ड (23) द्वारा स्थापित किया गया धारा 11 की उप-धारा (2) तथा (3) के उपबंधों के अनुसार पूर्णतया तथा अलग-अलग उन उद्देश्यों के लिए करेगा, जिन्हें लिए इसकी स्थापना की गई है;

- (ii) कर-निर्धारिता उपर-उल्लिखित कर-निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उक्त निधि [जिबरा-जवाहरात, फर्नीचर अथवा किसी अन्य वस्तु जिसे उपर्युक्त खण्ड (23) के तहत परन्तुक के अधीन बोर्ड द्वारा अधिपुत्रित किया जाए, के रूप में प्राप्त तथा रख-रखाव में स्वैच्छिक अंशदान से भिन्न] का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;
- (iii) कर-निर्धारिता अपने सदस्यों को किसी भी तरीके से अपनी आय के किसी भाग का वितरण अपने से संबद्ध किसी एसोसिएशन अथवा संस्था को अनुदान के अलावा नहीं करेगा; और
- (iv) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हों जब तक कि ऐसा कारोबार उक्त कर-निर्धारिता के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा-पुरतिकर्ण नहीं रखी जाती हों।

[अधिसूचना सं. 9230/फा.सं. 196/3/91-आ. कर (नि-1)]

भारत चन्द्र, अधर सचिव

New Delhi, the 1st March, 1993

(INCOME-TAX)

S.O. 774.—In exercise of the powers conferred by clause (23) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "The Madhya Pradesh Flying Club Limited, Indore" for the purpose of the said clause for assessment years 1990-91 to 1992-93, subject to the following conditions, namely:—

- (i) the assessee will apply its income, or accumulate it for application, in consonance with the provision of sub-sections (2) and (3) of Section 11 as modified by the said clause (23) for such accumulation wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds other than voluntary contributions received and maintained in the form of jewellery, furniture or and [other article as may be notified by the Board under the third provision to the aforesaid clause (23)] for any period during the previous year(s) relevant to the assessment year(s) mentioned above other wise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;

(iii) the assessee will not distribute any part of its income in any manner to its members except as grants to any association or institution affiliated to it; and

(iv) this notification will not apply in relation to income being profits and gains of business unless the business is incidental to the attainment of the objective of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 9230/F. No. 196/3/91-ITA-I]  
SHARAT CHANDRA, Under Secy

आदेश

नई दिल्ली, 15 मार्च, 1993

स्टाम्प

कां.आ. 775.—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उस शुल्क को माफ करती है जो यू.पी. इलेक्ट्रॉनिक कारपोरेशन लिमि. द्वारा उत्तर प्रदेश सरकार के पर्यटन विकास विभाग को स्थानान्तरित किए जाने वाले केवल एक कराड़ तथा चौरानवे लाख रु. के कुल मूल्य के शेयरों पर उक्त अधिनियम के अन्तर्गत अभाय हैं।

[सं. 10/93 स्टाम्प कां.सं. 33/45/91-वि.कं.]

ORDER

New Delhi, the 15th March, 1993

STAMPS

S.O. 775.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act 1899 (2 of 1899), the Central Government hereby remits the duty with which the shares of the aggregate value of rupees one crore and ninety-four lakhs, to be transferred by the U Electronic Corporation Limited to the Hill Development Department of the Government of Uttar Pradesh, are chargeable under the said Act.

[No. 10/93-Stamps-F. No. 33/45/91-ST

ATMA RAM, Under Sec

आदेश

नई दिल्ली, 15 मार्च, 1993

स्टाम्प

का.आ. 776.—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उस शुल्क को माफ करती है जो नेशनल कोऑपरेटिव डेवलपमेंट कारपोरेशन, नई दिल्ली द्वारा जारी किए जाने वाले पच्चीस कराड़ तथा तीन लाख रुपये मूल्य के प्रीमियर नोटों के स्वाम के 13% एन.सी.डी.

बंधपत्रों. 2008 (चौतीसवीं शृंखला) में वर्णित बंधपत्रों पर उक्त अधिनियम के अन्तर्गत प्रभाव है।

[सं. 9/93-स्टाम्प-फा.सं. 33/4/93-वि.क.]

आत्मा राम, अवर सचिव

#### ORDER

New Delhi, the 15th March, 1993

#### STAMPS

S.O. 776.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the duty with which the bonds, in the nature of promissory notes, described as 13% NCDC Bonds, 2008 (XXXIVth Series) of the value of rupees twenty-five crores and three lakhs only to be issued by the National Cooperative Development Corporation, New Delhi, are chargeable under the said Act.

[No. 9/93-Stamp-F. No. 33/5/93-ST]

ATMA RAM, Under Secy.

आदेश

नई दिल्ली, 31 मार्च, 1993

स्टाम्प

का.आ. 777:—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उप-धारा (1) के खण्ड (ब) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा हरदिल्लिया यूनिमर्स लिमिटेड, बम्बई को मात्र चौदह लाख पचानवें हजार और पांच सौ रुपये का समेकित स्टाम्प शुल्क अदा करने की अनुमति देती है जो उक्त कम्पनी द्वारा जारी किए जाने वाले मात्र उन्नीस करोड़ चौरानवें लाख रुपये के कुल मूल्य के दो-दो सौ रुपये के अंकित मूल्य के 001 से 9,97,000 तक की विशिष्ट संख्या वाले 12.5 प्रतिशत सुरक्षित विमोच्य अंशतः परिवर्तनीय ऋण-पत्रों पर स्टाम्प शुल्क के कारण प्रभाव है।

[सं. 11/93-स्टाम्प/फा.सं. 33/60/92-वि.क.]

ठाकुर दत्त, उप सचिव

#### ORDER

New Delhi, the 31st March, 1993

#### STAMPS

S.O. 777.—In exercise of the powers conferred by clause (b) of sub-section (1) of Section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits Herdillia Unimers Limited, Bombay, to pay consolidated stamp duty of rupees fourteen lakhs, ninety five thousand and five hundred only, chargeable on account of the stamp duty on 12.5% Secured Redeemable Partly Convertible Debentures bearing distinctive numbers 001 to 9,97,000 of the face value of rupees two hundred each of the aggregate value of rupees nineteen crores ninety four lakhs only to be issued by the said company.

[No. 11/93-Stamp/F. No. 33/60/92-ST]

THAKUR DATT, Dy. Secy.

आदेश

नई दिल्ली, 31 मार्च, 1993

स्टाम्प

का.आ. 778:—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा इण्डिया फोइल्स लिमिटेड, कलकत्ता को मात्र एक लाख, बारह हजार और पांच सौ रुपये का समेकित स्टाम्प शुल्क अदा करने की अनुमति देती है जो उक्त कम्पनी द्वारा जारी किए जाने वाले मात्र एक करोड़ और पचास लाख रुपये के कुल मूल्य के प्रत्येक सौ-सौ रुपये के अंकित मूल्य के 1 से 1,50,000 तक की विशिष्ट क्रम संख्या वाले 19 प्रतिशत 1,50,000 अर्परिवर्तनीय ऋण-पत्रों पर स्टाम्प शुल्क के लिए प्रभाव है।

[सं. 12/93-स्टा./फा.सं. 33/36/92-वि.क.]

ठाकुर दत्त, उप सचिव

#### ORDER

New Delhi, the 31st March, 1993

#### STAMPS

S.O. 778.—In exercise of the powers conferred by clause (b) of sub-section (1) of Section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits India Foils Limited, Calcutta, to pay consolidated stamp duty of rupees One lakh, twelve thousand and five hundred only, chargeable on account of the stamp duty on nineteen per cent 1,50,000 Non-Convertible debentures bearing distinctive serial numbers 1 to 1,50,000 of the face value of rupees one hundred each of the aggregate value of rupees One crore and fifty lakhs to be issued by the said company.

[No. 12/93-Stamp F. No. 33/36/92-ST]

THAKUR DATT, Dy. Secy.

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 19 मार्च, 1993

का.आ. 779.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा घोषणा करती है कि उक्त अधिनियम की धारा 10-ख की उपधारा (1) एवं (2) के उपबंध, बनारस स्टेट बैंक लिमिटेड पर 27 जनवरी, 1993 से 26 फरवरी, 1993 की एक माह की अवधि के लिए या नए अध्यक्ष एवं मुख्य कार्यपालक अधिकारी के पदभार ग्रहण करने तक, इनमें से जो भी पहले हो लागू नहीं होंगे।

[सं. 15/11/92-बी.ओ.ए. (1)]

के. के. संगल, अवर सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 19th March, 1993

S.O. 779.—In exercise of the powers conferred by section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendation of the

Reserve Bank of India, hereby declares that the provisions of sub-section 1) and (2) of section 10B of the said Act shall not apply to the Benares State Bank Limited for a period of one month from 27th January, 1993 to 26th February, 1993 or till the appointment of a regular whole-time Chairman for that bank, whichever is earlier.

[No. 15/11/92-BOA (i)]

K. K. MANGAL, Under Secy.

नई दिल्ली, 19 मार्च, 1993

का.आ. 780:—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिशों पर एतद्वारा घोषणा करती है कि उक्त अधिनियम की धारा 10-ख की उप-धारा (9) के उपबंध बनारस स्टेट बैंक लिमिटेड पर 27 जनवरी, 1993 से 26 फरवरी, 1993 तक अथवा बैंक के नए अध्यक्ष की नियुक्ति होने तक इन में से जो भी पहले हो उस सीमा तक लागू नहीं होंगे, जहां तक बैंक को चार महीने से अधिक के बास्ते अध्यक्ष एवं मुख्य कार्यपालक अधिकारी का काम करने के लिए किसी व्यक्ति की नियुक्ति करने की छूट प्राप्त है।

[सं. 15/11/92-बी.ओ.ए. (ii)]

के.के. मंगल, अवर सचिव

New Delhi, the 9th March, 1993

S.O. 780.—In exercise of the powers conferred by section 53 of the Banking Regulations Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of sub-section (9) of section 10-B of the said Act shall not, to the extent they preclude the bank from appointing a person to carry out the duties of the Chairman and Chief Executive Officer beyond a period exceeding four months, apply to the Benares State Bank Ltd., from 27th January, 1993 to 26th February, 1993 or till the appointment of a regular Chairman for that bank, whichever is earlier.

[No. 15/11/92-BOA (ii)]

K. K. MANGAL, Under Secy.

नई दिल्ली, 6 अप्रैल, 1993

का.आ. 781:—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध) स्कीम, 1970 के खण्ड 3 के उपखण्ड (छ) के अनुसरण में, केन्द्रीय सरकार, एतद्वारा, नीचे दी गयी सारणी के कालम (2) में विनिर्दिष्ट व्यक्तियों को उक्त सारणी के कालम (3) में निर्दिष्ट व्यक्तियों के स्थान पर कालम (1) में निर्दिष्ट राष्ट्रीयकृत बैंकों का निदेशक नियुक्त करती है:—

सारणी		
1	2	3
यूनियन बैंक आफ इंडिया	श्री आर.के. जालान मुख्य अधिकारी ग्रामीण [आयोजना एवं ऋण विभाग, केन्द्रीय कार्यालय भारतीय रिजर्व बैंक, बम्बई।	श्री डी.एन. सामर्थ
यूनाइटेड बैंक आफ इंडिया	श्री बी.एन. विस्वास संयुक्त मुख्य अधिकारी बैंकिंग परिचालन और विकास विभाग भारतीय रिजर्व बैंक, कलकत्ता।	श्री एस.ए. हृसैन

[संख्या 9/13/92-बी.ओ.-1]

एम.एस. सीतारामन, अवर सचिव

New Delhi, the 6th April, 1993

S.O. 781.—In pursuance of sub-clause (g) of clause 3 of the Nationalised Banks (Management and Miscellaneous provisions) Scheme, 1970, the Central Government hereby appoints the persons specified in column (2) of the Table below as Directors of the nationalised banks specified in column (1) thereof in place of the persons specified in column (3) of the said Table :

TABLE

1	2	3
Union Bank of India	Shri R.K. Jalan, Chief Officer, Rural Planning and Credit Department, Reserve Bank of India, Central Office, Bombay.	Sh. D.N. Samarth

1

2

3

United Bank of India

Shri B.N. Biswas  
Joint Chief Officer,  
Department of Banking Operations  
and Development,  
Reserve Bank of India,  
Calcutta.

Sh. S.A. Hussain

[No. 9/13/92-B.O.]

M.S. SEETHARAMAN, Under Secy.

वाणिज्य मंत्रालय

(विदेश व्यापार महानिदेशालय)

आदेश

नई दिल्ली, 6 अप्रैल, 1993

का.आ. 782.—मै. जोधा स्टुड और एग्रीकल्चर फार्म, ग्राम और डाकखाना भारक्रोटा, जयपुर-अजमेर रोड, जिला जयपुर को सामान्य मुद्रा क्षेत्र के अंतर्गत दो नं. बूडमेपर्स का आयात करने के लिए 7,00,000 रुपए (सात लाख रुपए मात्र) का एक आयात लाइसेंस सं. पी/एस/2304927 दिनांक 28-9-1992 मंजूर किया गया था।

फर्म ने उक्त लाइसेंस की दूसरी सीमाशुल्क प्रयोजन प्रति इस आधार पर जारी करने के लिए आवेदन किया है कि इस लाइसेंस की मूल सीमाशुल्क प्रयोजन प्रति खो गई है या गुम हो गई है। यह भी बताया गया है कि लाइसेंस की सीमाशुल्क प्रयोजन प्रति को किसी सीमाशुल्क प्राधिकारी से पंजीकृत नहीं कराया गया था और इस प्रकार सीमाशुल्क प्रयोजन प्रति के मूल्य का बिल्कुल भी इस्तेमाल नहीं हुआ है।

2. अपने तर्क के समर्थन में लाइसेंसधारी ने नोटरी पब्लिक, दिल्ली के समक्ष विधिवत् शपथ लेकर स्टाम्प पेपर पर एक हलफनामा दाखिल किया है। तदनुसार मैं संतुष्ट हूँ कि आयात लाइसेंस सं. पी/एस/2304927 दिनांक 28-9-1992 की मूल सीमाशुल्क प्रयोजन प्रति फर्म से खो गई है या गुम हो गई है। यथासंशोधित आयात (नियंत्रण) आदेश, 1955 दिनांक 7-12-1955 के उप-खण्ड-9 (ग) के अंतर्गत प्रदत्त शक्तियों का प्रयोग करते हुए मै. जोधा स्टुड और एग्रीकल्चर फार्म, जयपुर को जारी की गई उक्त मूल सीमाशुल्क प्रयोजन प्रति सं. पी/एस/230497 दिनांक 28-9-1992 को एतद्वारा निरस्त किया जाता है।

3. पार्टी को उक्त लाइसेंस की दूसरी सीमाशुल्क प्रयोजन प्रति अलग से जारी की जा रही है।

[फा.सं. एसपीएल/एनएस/495/एसएसआई/एस. 93/एसएस  
एस/2]

माया-डी-केम, उप महानिदेशक, विदेश व्यापार

MINISTRY OF COMMERCE

(Directorate General of Foreign Trade)

ORDER

New Delhi, the 6th April, 1993

S.O. 782.—M/s. Jodha Stud & Agriculture Farm, Village & P.O. Bharkrota, Jaipur-Ajmer Road, Distt. Jaipur, were granted an import licence No. P/S/2304927 dt. 28-9-92 for Rs. 7,00,000 (Rupees Seven lakhs only) for import of Two Nos. Broodmares under GCA.

The firm has applied for issue of Duplicate Customs purpose copy of the abovementioned licence on the ground that the original Customs purpose copy of the licence has been lost or misplaced. It has further been stated that the Customs purpose copy of the licence was not registered with any Customs Authority and as such the value of Customs purpose copy has not been utilised at all.

2. In support of their contention, the licensee has filed an affidavit on stamped paper duly sworn in before a Notary public, Delhi. I am accordingly satisfied that the concerned Customs purpose copy of import licence No. P/S/2304927 dt. 28-9-92 has been lost or misplaced by the firm in exercise of the powers conferred under sub-section 9(cc) of the Import (Control) Order, 1955 dt. 7-12-1955 as amended the said original Customs purpose copy No. P/S/2304927 dt. 28-9-92 issued to M/S. Jodha Stud & Agriculture Farm, Jaipur, is hereby cancelled.

3. A duplicate Customs purpose copy of the said licence is being issued to the party separately.

[F. No. SPI/NS/495/SSI/AM. 93/SLS/2]

MAYA D-KEM. Dy. Director of Foreign Trade

कोयला मंत्रालय

आदेश

नई दिल्ली, 30 मार्च, 1993

का.आ. 783 —कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) धारा 9 की उपधारा (1) के अधीन विकसित की गई भारत सरकार के तत्कालीन ऊर्जा मंत्रालय (कोयला विभाग) की अधिसूचना सं. का.आ. 3055, तारीख 29 अक्टूबर, 1990 के, भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii) तारीख 17 नवम्बर, 1990 में प्रकाशित होने पर, उक्त अधिसूचना से संलग्न अनुसूची में वर्णित भूमि और ऐसी भूमि में या सभी अधिकार (जिसे उनमें इसके पश्चात् उक्त भूमि कहा गया है) उक्त अधिनियम की धारा 10 की उपधारा (1) के अधीन, सभी विलयनों से मुक्त होकर आत्यन्तिक रूप से केन्द्रीय सरकार में निहित हो गए थे)।



और, केन्द्रीय सरकार का यह समाधान हो गया है कि ईस्टर्न कोलफील्ड्स लिमिटेड, विलासपुर (मध्य प्रदेश) जिसे इसमें इसके पश्चात् सरकारी कंपनी कहा गया है), ऐसे निबंधनों और शर्तों का जो केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे अनुपालन करने के लिए राजमंद है;

अतः, अब केन्द्रीय सरकार उक्त अधिनियम की धारा 11 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि इस प्रकार निहित उक्त भूमि और ऐसी भूमि में या उस पर के सभी अधिकार, तारीख 17 नवम्बर, 1990 से केन्द्रीय सरकार में इस प्रकार निहित बने रहने की बजाय, निम्नलिखित निबंधनों और शर्तों के अधीन रहते हुए, उक्त सरकारी कंपनी में निहित हो जाएंगे अर्थात्—

- (1) सरकारी कंपनी, उक्त अधिनियम के उपबंधों के अधीन अवधारित प्रतिकर, व्याज नुकसानी और बैसी ही मर्दों की बाबत किए गए सभी संदायों की केन्द्रीय सरकार को प्रतिपूर्ति करेगी।
- (2) सरकारी कंपनी द्वारा शर्त (i) के अधीन, केन्द्रीय सरकार को संदेय रकमों का अवधारण करने के प्रयोजन के लिए एक अधिकरण का गठन किया जाएगा तथा ऐसी किसी अधिकरण और ऐसे अधिकरण की सहायता के लिए नियुक्त व्यक्तियों के संबंध में उपगत सभी व्यय, सरकारी कंपनी वहन करेगी और इसी प्रकार इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के लिए या उनके संबंध में सभी विधिक कार्यवाहियों जैसे अपील अपील, आदि की बाबत उपगत सभी व्यय भी सरकारी कंपनी वहन करेगी।
- (3) सरकारी कंपनी, केन्द्रीय सरकार या उसके पदाधारियों की, ऐसे किसी अन्य व्यय के संबंध में, जो इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के बारे में, केन्द्रीय सरकार या उसके पदाधारियों द्वारा या उनके विरुद्ध किन्हीं कार्यवाहियों के संबंध में आवश्यक हों, क्षतिपूर्ति करेगी।
- (4) सरकारी कंपनी को, केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, उक्त भूमि का अधिकार किसी अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी, और
- (5) सरकारी कंपनी, ऐसे निदेशों और शर्तों का, जो केन्द्रीय सरकार द्वारा, जब कभी आवश्यक हों, उक्त भूमि के विशिष्ट क्षेत्रों के लिए दिए जाएं या अधिरोपित की जाएं, पालन करेगी।

[सं० 43015/10/87-सीए/एलएसडब्ल्यू]

बी०बी० राव, अवर सचिव

## MINISTRY OF COAL ORDER

New Delhi, the 30th March, 1993

S.O. 783.—Whereas on the publication of the notification of the Government of India in the then Ministry of Energy (Department of Coal) number S.O. 3055 dated the 29th Oct. 1990, in the Gazette of India, Part II, Section 3, Sub-Section (ii) dated the 17th November 1990 issued under sub-section (1) of section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the lands and all rights in or over such lands described in the schedule appended to the said notification (hereinafter referred to as the said lands) vested absolutely in the Central Government free from all encumbrances under sub-section (1) of section 10 of the said Act;

And whereas the Central Government is satisfied that the South Eastern Coalfields Limited, Bilaspur (Madhya Pradesh) (hereinafter referred to as the Government Company) is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf,

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 11 of the said Act, the Central Government hereby directs that the said lands and all rights in or over such land so vested shall, with effect from the 17th November, 1990, instead of continuing to so vest in the Central Government, vest in the Government Company, subject to the following terms and conditions, namely :—

- (1) the Government Company shall reimburse the Central Government all payments made in respect of compensation, interest, damages and the like, as determined under the provisions of the said Act;
- (2) a tribunal shall be constituted for the purpose of determining the amounts payable to the Central Government by the Government Company under condition (1), and all expenditure incurred in connection with any such tribunal and persons appointed to assist the tribunal shall be borne by the Government Company and similarly, all expenditure incurred in respect of all legal proceedings like appeals etc. for or in connection with the rights, in or over the said lands, so vesting shall also be borne by the Government Company;
- (3) the Government Company shall indemnify the Central Government or its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials regarding the rights in or over the said lands so vesting;
- (4) the Government Company shall have no power to transfer the said lands or rights to any other person without the previous approval of the Central Government; and
- (5) the Government Company shall abide by such directions or conditions as may be given or imposed by the Central Government for particular areas of the said lands, as and when necessary.

[No. 43015/10/87-CA/LSW]

B. B. RAO, Under Secy.

नई दिल्ली 30 मार्च, 1993

का.आ. 784.—केन्द्रीय सरकार, सरकारी स्थान (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए नीचे की अनुसूची के स्तंभ (1) में उल्लिखित अधिकारी को जो सरकार के राजपत्रित अधिकारी के समतुल्य अधिकारी हैं, उक्त अधिनियम के प्रयोजन के लिए संपदा अधिकारी नियुक्त करती है, जो उक्त अनुसूची के स्तंभ 2 में विनिर्दिष्ट सरकारी स्थानों के संबंध में अपनी

अधिकारिता की सीमाओं के भीतर, उक्त अधिनियम के अधीन सम्पदा अधिकारियों को प्रदत्त शक्तियों का प्रयोग और उस पर अधिरोपित कर्तव्यों का पालन करेगा।

### अनुसूची

अधिकारी का पद नाम सरकारी स्थानों के प्रवर्ग और अधिकारिता की स्थानीय सीमाएं

1	2
अपर मुख्य सम्पदा प्रबंधक, कोल इंडिया लिमिटेड के कोल इंडिया लिमिटेड पश्चिमी बंगाल में 10 नेता जी 10, नेताजी सुभाष मार्ग, मार्ग, उल्टा डांगा गरिहार कलकत्ता-700001 और विधान नगर (नमक झील) साऊथ 24 परगना की भूमि और भवन।	

1

2

(ख) पश्चिमी बंगाल के हुगली जिले में दनकुनी कोल काम्प्लेक्स के कारखाने और नगरी क्षेत्रों के स्थित कोल इंडिया लिमिटेड के दनकुनी कोल काम्प्लेक्स की भूमि और भवन।

(ग) जिला तिनसुकिया में मार-चेरिया, असम का शिवसागर और नांगलबिबरा, पश्चिमी गारो पहाड़ियां मेघालय स्थित कोल इंडिया लि. नार्थ ईस्टर्न कोलफील्ड्स की सभी भूमि और भवन।

[सं. 43024/2/92-एन एस डब्ल्यू]  
बी.बी. राव, अवर सचिव

New Delhi, the 30th March, 1993

S.O. 784.—In exercise of the power conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (Act 40 of 1971) the Central Government hereby appoints the officer mentioned in col. (1) of the Table below being an officer equivalent to the rank of gazetted officer in the Government, to be Estate Officer for the purpose of the said Act, who shall exercise the powers conferred and perform the duties imposed on Estate Officers by or under this Act within the limits of his jurisdiction in respect of the categories of public premises specified in col. 2 of the said Table :

TABLE

Designation of the Officer

Categories of Public Premises and local limit of jurisdiction

1	2
Additional Chief Estate Manager, Coal India Limited, 10 Netaji Subhash Road, Calcutta-700001.	(a) Lands and Buildings of Coal India Limited at 10, Netaji Subhas Road, Ultadanga, Gariahat Calcutta and Bidhan Nagar (Salt Lake), South 24-Parganas in West Bengal. (b) Lands and Buildings of Dankuni Coal Complex, Coal India Limited at the factory and town-ship areas of Dankuni Coal Complex in the district of Hooghuly, West Bengal. (c) All lands and buildings of North Eastern Coalfields, Coal India Limited at Margherita, in the district of Tinsukia, Sibsagar of Assam and Nangalbibra, West Garo Hills, Meghalaya.

[No. 43024/2/92-LSW]  
B.B. RAO, Under Secy.

## आदेश

नई दिल्ली, तारीख 30 मार्च 1993

का.आ. 785—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम 1957 (1957 का 20) की (जिसमें इसके पश्चात् उक्त अधिनियम कहा गया है) धारा 9 की उपधारा (1) के अधीन निकाली गई भारत सरकार के तत्कालीन ऊर्जा मंत्रालय (कोयला विभाग) की अधिसूचना सं. का.आ. 359 तारीख 23 जनवरी, 1990 के भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii) तारीख 10 फरवरी 1990 में प्रकाशित होने पर उक्त अधिसूचना से संलग्न अनुसूची में वर्णित भूमि और ऐसी भूमि में या उस पर के सभी अधिकार (जिसमें इसमें इसके पश्चात् उक्त भूमि कहा गया है) उक्त अधिनियम की धारा 10 की उपधारा (1) के अधीन सभी विलगनों से मुक्त होकर, आत्यंतिक रूप से केन्द्रीय सरकार में निहित हो गए थे;

और, केन्द्रीय सरकार का यह समाधान हो गया है कि वेस्टर्न कोलफील्ड्स लिमिटेड, नागपुर (जिसमें इसमें इसके पश्चात् सरकारी कंपनी कहा गया है), ऐसे निबंधनों और शर्तों की, जो केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे अनुपालन करने के लिए रजामंद है;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 11 की उपधारा (1) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि इस प्रकार निहित उक्त भूमि और ऐसी भूमि में या उस पर के सभी अधिकार तारीख 10 फरवरी, 1990 से केन्द्रीय सरकार में इस प्रकार निहित बने रहने की बजाय निम्नलिखित निबंधनों और शर्तों के अधीन रहते हुए, उक्त सरकारी कंपनी में निहित हो जाएंगे, अर्थात्:—

- (1) सरकारी कंपनी, उक्त अधिनियम के उपबधों के अधीन अवधारित प्रतिकर, ब्याज, नुकसानी और वैसी ही मदों की बाबत किए गए सभी संदायों की केन्द्रीय सरकार को प्रतिपूर्ति करेगी।
- (2) सरकारी कंपनी द्वारा शर्त (1) के अधीन केन्द्रीय सरकार को संदेय रकमों का अवधारण करने के प्रयोजन के लिए एक अधिकरण का गठन किया जाएगा तथा ऐसे किसी अधिकरण और ऐसे अधिकरण की सहायता के लिए नियुक्त व्यक्तियों के संबंध में उपगत सभी व्यय, सरकारी कंपनी वहन करेगी और इसी प्रकार, इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के लिए या उनके संबंध में सभी विधिक कार्यवाहियों, जैसे अपील, आदि की बाबत उपगत सभी व्यय भी, सरकारी कंपनी वहन करेगी।
- (3) सहकारी कंपनी केन्द्रीय सरकार या उसके पदधारियों की, ऐसे किसी अन्य व्यय के संबंध में, जो इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के बारे में केन्द्रीय सरकार या उसके

पदधारियों द्वारा या उनके विरुद्ध किन्हीं कार्यवाहियों के संबंध में आवश्यक हो, क्षतिपूर्ति करेगी।

- (4) सरकारी कंपनी को, केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, उक्त भूमि किसी अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी; और
- (5) सरकारी कंपनी, ऐसे निर्देशों और शर्तों का, जो केन्द्रीय सरकार द्वारा, जब कभी आवश्यक हों, उक्त भूमि के विविष्ट क्षेत्रों के लिए दिए जाएं या अधिरोपित की जाए पालन करेगी।

[सं. 43019/21/89-सी.ए./एल.एस.डब्ल्यू.]

बी.बी. राव, अव्वर सचिव

## ORDER

New Delhi, the 30th March, 1993

S.O. 785.—Whereas on the publication of the notification of the Government of India in the then Ministry of Energy (Department of Coal) number S.O. 359, dated the 23rd January, 1990 in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 10th February, 1990, issued under sub-section (1) of section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) hereinafter referred to as the said Act, the lands and all rights in or over such lands described in the Schedule appended to the said notification hereinafter referred to as the said lands) vested absolutely in the Central Government free from all encumbrances under sub-section (1) of section 10 of the said Act;

And whereas the Central Government is satisfied that the Western Coalfields Limited, Nagpur, hereinafter referred to as the Government Company) is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 11 of the said Act, the Central Government hereby directs that the said lands and all rights in or over such lands so vested shall, with effect from the 10th February, 1990, instead of continuing to so vest in the Central Government, vest in the Government Company, subject to the following terms and conditions, namely:—

- (1) the Government Company shall reimburse the Central Government all payments made in respect of compensation, interest, damages and the like, as determined under the provisions of the said Act.
- (2) a tribunal shall be constituted for the purpose of determining the amounts payable to the Central Government by the Government Company under condition (1), and all expenditure incurred in connection with any such tribunal and persons appointed to assist the tribunal shall be borne by the Government Company and similarly, all expenditure incurred in respect of all legal proceedings like appeals etc. for or in connection with the rights, in or over the said lands, so vesting shall also be borne by the Government Company;
- (3) the Government Company shall indemnify the Central Government or its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government of its officials regarding the rights in or over the said lands so vesting;
- (4) the Government Company shall have no power to transfer the said lands to any other person without the previous approval of the Central Government and
- (5) the Government Company shall abide by such directions or conditions as may be given or imposed by the Central Government for particulars areas of the said lands, as and when necessary.

[No. 43019/21/89-CA/L.S.W]

B. B. RAO, Under Secy

मानव संसाधन विकास मंत्रालय  
(शिक्षा विभाग)

नई दिल्ली, 6 अप्रैल, 1993

का. आ. 786—केन्द्रीय सरकार राजभाषा (संघ के सरकारी प्रयोजनों के लिए प्रयोग) नियम 1976 के नियम 10 के उप-नियम (4) के अनुसरण में मानव संसाधन विकास मंत्रालय (शिक्षा विभाग) के निम्नलिखित स्थायित संगठन को जिसमें 90 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्य साधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :—

इन्दिरा गांधी राष्ट्रीय,  
मुक्त विश्वविद्यालय,  
मैदान गढ़ी,  
नई दिल्ली-110068

[सं 11011/2/92-रा.भा.ए.]

रमेश कुमार आगिरस, निदेशक (राजभाषा)

MINISTRY OF HUMAN RESOURCE DEVELOPMENT  
(Deptt. of Education)  
New Delhi, the 6th April, 1993

S.O. 786.—In pursuance of sub-rule (4) of Rule 10 of the Official Languages (use for official purposes of the Union) Rules, 1976, the Central Government hereby notifies the following autonomous organisation of the Ministry of Human Resource Development (Deptt. of Education), more than 90% staff of which has acquired working knowledge of Hindi:—

Indira Gandhi National,  
Open University,  
Maidan Garhi,  
New Delhi-110068.

[No. 11011/2/92-OLU]  
R. K. ANGIRAS, Director (O.L.)

MINISTRY OF PETROLEUM AND NATURAL GAS  
New Delhi, the 12th April, 1993

S.O. 787.—In pursuance of clause (a) of section 2 of the petroleum and Minerals Pipelines (Acquisition of Right of Users in land) Act 1962 (50 of 1962) the Central Government hereby authorise the Authority mentioned in column 1 of the schedule below to perform the function of Competent Authority under the said act within the area mentioned in the corresponding entry in the column 3 of the said schedule.

#### SCHEDULE

Name of the person	Address	Territorial Jurisdiction
y. Collector	Gas Authority of India Ltd. Darpan Building R.C. Dutt Road, 2nd Floor, Alkapuri Baroda.	Gujarat

[No. O-14016/1/92-GP(Pt)]  
RAJIV MEHRISHI, Director

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 12 अप्रैल, 1993

का. आ. 787.—पेट्रोलियम एवं खनिज पाइप लाइन (भूमि के उपयोग का अर्जन) अधिनियम 1962 (1962 का 50 वां) की धारा 2 के खण्ड (क) के अनुसरण में केन्द्रीय सरकार एतद्वारा नीचे दी गयी अनुसूची के कालम 1, में उल्लिखित प्राधिकारी को उक्त कालम-3 की तदुत्तरूपी प्रविष्टि में उल्लिखित क्षेत्र की सीमाओं के भीतर उक्त अधिनियम के अन्तर्गत सक्षम प्राधिकारी के कार्य करने के लिए एतद्वारा प्राधिकृत करती है।

#### अनुसूची

व्यक्ति का नाम	पता	क्षेत्रीय अधि-कार
(1)	(2)	(3)
डिप्टी कलेक्टर गैस अथॉरिटी आफ इण्डिया लि० दरपन बिल्डिंग, आर० सी दर्ता रोड, अल्कापुरी, द्वितीय तल, बड़ोदा गुजरात		गुजरात

[सं० ओ.-14016/1/92—जी पी. (पी टी)]  
राजीव मेहरिषी, निदेशक

## शुद्धिपत्र

नई दिल्ली, 12 अप्रैल, 1993

का. आ. 788.—भारत सरकार के राजपत्र दिनांक 3-11-84 के भाग-2, खण्ड-3, उपखण्ड (2) के पृष्ठ संख्या 3195 पर प्रकाशित भारत सरकार के पेट्रोलियम मंत्रालय की खनिज पाइप लाइन के (भूमि के उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन जारी की गयी अधिसूचना संख्या का. आ. 3450 दिनांक 3-11-84 ग्राम अहिरवां, परगना-कानपुर नगर, तहसील-कानपुर नगर, जिला कानपुर नगर की प्रकाशित सूची के स्तम्भ 5 व 6 में गाटा सं. 829 क्षेत्रफल 0-10-11 के स्थान पर गाटा संख्या 827 क्षेत्रफल 0-10-11 पढ़ा जाये।

[संख्या 14016/1/92 जी पी]

राजीव महर्षि, निदेशक

## CORRIGENDUM

New Delhi, the 12th April, 1993

S.O. 788.—In the Gazette of India, Ministry of Petroleum No. S.O. 3450, dt. 3-11-84 published on 3-11-84 at page no. 3195 in volume-2, part-3, under sub-section (1) of Section-3 of the Petroleum & Mineral Pipeline (Acquisition of Right of Users in Land) Act 1962 (50 of 1962) of village Ahirwan, Pargana Kanpur City, Tehsil-Kanpur City, Distt. Kanpur City in column 5 & 6 be read as plot No. 527 area 0-10-11 instead of Plot No. 829 area 0-10-11.

[No. 014016/1/92-G.P.]

RAJIV MEHARISHI, Dy. Secy.

## शुद्धिपत्र

नई दिल्ली, 12 अप्रैल, 1993

का. आ. 789.—भारत सरकार के राजपत्र दिनांक 9-3-85 के भाग-2, खण्ड 3, उपखण्ड (2) के पृष्ठ सं 1100 पर प्रकाशित भारत सरकार के पेट्रोलियम मंत्रालय की खनिज पाइप लाइन के (भूमि के उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 6 की उपधारा (1) के अधीन जारी की गयी अधिसूचना सं. का. आ. 971 दिनांक 9-3-85 ग्राम अहिरवां, परगना-कानपुर नगर, तहसील-कानपुर नगर, जिला कानपुर नगर की प्रकाशित सूची के स्तम्भ 5 व 6 में गाटा सं. 829, क्षेत्रफल 0-10-11 के स्थान पर गाटा सं. 827 क्षेत्रफल 0-10-11 पढ़ा जाए।

[संख्या 14016/1/92 जी पी]

राजीव महर्षि, निदेशक

## CORRIGENDUM

New Delhi, the 12th April, 1993

S.O. 789.—In the Gazette of India, Ministry of Petroleum No. S.O. 971 dt. 9-3-85, published on 9-3-85 at page no. 1100

in volume-2, part-3, under sub-section (1) of Section-6 of the petroleum & Mineral Pipeline (Acquisition of Right of Users in Land) Act 1962 (50 of 1962) of village Ahirwan, Pargana-Kanpur City, Tehsil-Kanpur City, Distt. Kanpur City in column 5 & 6 be read as Plot No. 827 area 0-10-11 instead of Plot no. 829 area 0-10-11.

[No. 014016/1/92-G.P.]

RAJIV MEHARISHI, Dy. Secy.

## दिल्ली विकास प्राधिकरण

(मुख्य योजना अनुभाग)

सार्वजनिक सूचना

नई दिल्ली, 15 अप्रैल, 1993

का. आ. 790.—केन्द्रीय सरकार का, दिल्ली की मुख्य योजना/क्षेत्रीय विकास योजना में निम्नलिखित संशोधन करने का प्रस्ताव है, जिसे सार्वजनिक सूचना के लिए एतद्वारा प्रकाशित किया जाता है। प्रस्तावित संशोधन के संबंध में यदि किसी व्यक्ति को कोई आपत्ति हो/कोई सुझाव देना हो तो वह अपनी आपत्ति/सुझाव लिखित रूप में सचिव, दिल्ली विकास प्राधिकरण, विकास सदन, "बी" ब्लॉक, आई.एन.ए., नई दिल्ली को, इस सूचना के जारी होने की तारीख से 30 दिनों की अवधि के अन्दर भेज सकते हैं। आपत्ति करने/सुझाव देने वाले व्यक्ति अपना नाम और पता भी दे।

संशोधन :

"उप-जोन सी-14 (तिमारपुर क्षेत्र) में पड़ने वाले और उत्तर में मौजूदा तिमारपुर रोड से, दक्षिण में आईडल ट्रक पार्किंग, मंगजीन रोड और दिल्ली प्रशासन के स्टाफ क्वार्टरों से, पूर्व में मार्ग सं. 45 से और पश्चिम में तिमारपुर रोड और दिल्ली प्रशासन के स्टाफ क्वार्टरों से घिरे लगभग 20.25 हेक्टेयर (50 एकड़) क्षेत्र के भूमि उपयोग को "मनोरंजात्मक उपयोग" से "आवासीय उपयोग" में बदलने का प्रस्ताव है।"

2. प्रस्तावित संशोधन को दर्शाने वाला नक्शा निरीक्षण के लिए उ-निदेशक कार्यालय, मुख्य योजना अनुभाग, विकास मीनार, छठी मंजिल, आई.पी. स्टेट, नई दिल्ली में उक्त अवधि के अन्दर सभी कार्य-दिवसों को उपलब्ध होगा।

[सं. एफ-20(6)/92-एम.पी.]

रणवीर सिंह, सचिव

DELHI DEVELOPMENT AUTHORITY

(Master Plan Section)

PUBLIC NOTICE

New Delhi, the 15th April, 1993

S.O. 790.—The following modification which the Central Government proposes to make to the Master Plan/Zonal Development Plan for Delhi, is hereby published for public information. Any person having any objection/suggestion with respect to the proposed modification may send the objection/suggestion in writing to the Secretary, Delhi Development Authority, Vikas Sadan 'B' Block, I.N.A., New Delhi within a period of thirty days from the date of issue of this notice. The person making the objection/suggestion should also give his name and address.

## MODIFICATION :

"The land use of an area, measuring about 20.25 ha. (50 acres), falling in sub-zone C-14 (Timarpur Area) bounded by existing Timarpur Road in the North, Idle Truck parking, Magazine Road and Delhi Admn.'s Staff Qrts., in the South, Road No. 45 in the East and Timarpur Road and Delhi Admn.'s Staff Qrts. in the West, is proposed to be changed from 'recreational use' to 'residential use'."

2. The plan indicating the proposed modification will be available for inspection at the office of Deputy Director, Master Plan Section, Vikas Minar, 6th floor, I. P. Estate, New Delhi, on all working days within the period referred above.

[No. F. 20(6)/92-MP]  
RANBIR SINGH, Secy.

## सार्वजनिक सूचना

नई दिल्ली, 15 अप्रैल, 1993

का. आ. 791.—केन्द्र सरकार का दिल्ली की मुख्य योजना/क्षेत्रीय विकास योजना में निम्नलिखित संशोधन करने का प्रस्ताव है, जो जनता की सूचना के लिए एतद्वारा प्रकाशित किया जाता है। प्रस्तावित संशोधन के संबंध में यदि किसी व्यक्ति को कोई आपत्ति हो/कोई सुझाव देना हो तो वह अपनी आपत्ति/सुझाव इस सूचना की तारीख से 30 दिनों की अवधि के अन्दर सचिव, दिल्ली विकास प्राधिकरण, विकास सदन, "बी" ब्लाक, आई.एन.ए., नई दिल्ली को लिखित रूप में भेज सकते हैं। आपत्ति करने/सुझाव देने वाला व्यक्ति अपना नाम और पता भी दें।

## संशोधन :

"योजना डिब्बान/जोन "डी" (नई दिल्ली) के उप-जोन, डी-9 में पड़ने वाले और उत्तर में वाटर चैनल से, पूर्व में जनपथ से, दक्षिण में मौलाना आजाद मार्ग तथा पश्चिम में सरकारी कार्यालयों (निर्माण भवन) से घिरे प्लॉट नं. 23-डी, मौलाना आजाद रोड के और इस प्लॉट को राष्ट्रीय संग्रहालय प्लॉट सं. 22-सी की प्रतिबिम्बित छवि बनाने के लिए राजपथ की ओर 75 मीटर बढ़ाने के लिए लगभग 3.532 हेक्टेयर (8.724 एकड़) क्षेत्र के भूमि उपयोग को सामाजिक एवं सांस्कृतिक उपयोग 2.377 हेक्टेयर (5.817 एकड़) और केन्द्रीय संदृश्य क्षेत्र 1.155 हेक्टेयर (1.853 एकड़) के साथ "मनोरंजनात्मक" उपयोग को "सरकारी कार्यालयों" में बदलने का प्रस्ताव है।

2. प्रस्तावित संशोधन को दर्शाने वाला नक्शा निरीक्षण के लिए उप-निदेशक कार्यालय, मुख्य योजना अनुभाग, छठी मंजिल, विकास मीनार, आई.पी. एस्टेट, नई दिल्ली में उक्त अवधि के अन्दर सभी कार्य-दिवसों को उपलब्ध होगा।

[सं. एक. 16(12)89-एम पी]  
रणवीर सिंह, सचिव

## PUBLIC NOTICE

New Delhi, the 15th April, 1993

S.O. 791.—The following modification which the Central Govt. proposed to make in the Master Plan/Zonal Development Plan for Delhi is hereby published for public information. Any person having any objection/suggestion with respect to the proposed modification may send the objection/suggestion in writing to the Secretary, Delhi Development Authority, Vikas Sadan, 'B' Block, I.N.A., New Delhi within a period of 30 days from the date of this notice. The person making the objection/suggestion should also give his name and address.

## MODIFICATION :

The land use of an area, measuring about 3,532 hect. (8,724 acres), of plot no. 23-D Maulana Azad Road and further extending by 75m. towards Rajpath to make this plot as mirror image of National Museum plot no. 22-C, falling in sub-zone D-9 of Planning Division/Zone 'D' (New Delhi) and bounded by Water Channel in the North, Janpath in the East, Maulana Azad Marg in the South and Govt. Offices (Nirman Bhawan) in the West, is proposed to be changed from 'Social and Cultural' use 2,377 hect. (5,817 acres) and 'recreational' use along with Central Vista area 1,155 hect. (1,853 acres) to 'Govt. Offices'.

2. The plan indicating the proposed modification will be available for inspection at the office of Deputy Director, Master Plan Section, 6th floor, Vikas Minar, I. P. Estate, New Delhi on all working days within the period referred to above.

[No. F. 16(12)89-MP]  
RANBIR SINGH, Secy.

## श्रम मंत्रालय

नई दिल्ली, 22 मार्च, 1993

का. आ. 792.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, केनरा बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चंडीगढ़ के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-3-1993 को प्राप्त हुआ था।

[संख्या एल-12012/33/90-आई आर (बी-2)]

वी. के. वेणुगोपालन, डेस्क अधिकारी

## MINISTRY OF LABOUR

New Delhi, the 22nd March, 1993

S.O. 792.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, CHANDIGARH as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of CANARA BANK and their workmen which was received by the Central Government on 19-3-1993.

[No. L-12012/33/90 IR (B-II)]  
V. K. VENUGOPALAN, Desk Officer.

## ANNEXURE

BEFORE ASHIR ARVIND KUMAR, PRESIDING  
OFFICER, CENTRAL GOVERNMENT INDUS-  
TRIAL TRIBUNAL-CUM-LABOUR  
COURT, CHANDIGARH.

Case No. I.D. 98/90

Radhey Shyam Vs. Canara Bank

For the workman : Shri Arun Ghai.

For the management : Shri Sushil Kumar.

## AWARD

Central Government vide gazette notification No. L-12012/33/90-I.R. (B.2) dated 31st July 1990 issued U/S 10(1)(d) of the I.D. Act 1947 referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Canara Bank in dismissing Shri Radhey Shyam Sharma, Clerk is justified? If not, to what relief is the workman entitled?"

2. It has been alleged in the statement of claim that the petitioner was serving with the respdt. bank as clerk since Sep. 1976 and posted at branch office Agora district Jalandhar in the year 1985. He has further alleged that his services were illegally terminated on 31-10-1988. He has filed an appeal before the General Manager, the appellate authority dismissed the appeal on 15-3-1989. It is further alleged that the order passed by the disciplinary authority as well as appellate authority is illegal, arbitrary, mala-fide and against the provisions of law. It has been alleged that the charge sheet served upon him was not in accordance with the provisions of Sastri Award/Desai Award read with bipartite settlement. It is further alleged that the alleged misconduct does not fall under misconduct within the meaning of Chapter XI Regulation 3, clause (3) of the Canara Bank Service Code and does not constitute misconduct. It is further alleged that the appointment of the enquiry officer was not as per the provisions contained in Sastri Award/Desai Award as the notice required under para 18.20(12) of Desai Award read with clause 19 : 14 of the Bipartite Settlement was not displayed on the notice board. Further the inquiry proceedings were not held in accordance with the provisions of the Award/BP settlement. Finding of the enquiry proceedings were not supplied to the workman. The depositor was never produced in evidence. It is further alleged that appellate authority did not consider the facts, circumstances, and merits of the case before dismissing the appeal. Dismissal is illegal, arbitrary, unlawful and prayed for reinstatement with all consequential relief.

3. The management contested the claim. The plea has been taken that punishment awarded is based on a regular law-ful and impartial disciplinary enquiry. It is further pleaded that the petitioner confessed his guilt and the enquiry officer had no option but to hold guilty. It is further pleaded that the petitioner also confessed his guilt before the disciplinary authority. It is further pleaded that the petitioner himself stated that he deposited an amount of Rs. 2700 in the bank. It is further pleaded that on account of confession of the petitioner he only prayed for leniency. It is further pleaded that on 26-12-1983 he has waded an

appeal to the General Manager and in that too he confessed the charges and did not pose any challenge to the charge sheet. On merits it has been pleaded that on 2-12-1987 while acting as cashier he paid cash to one Mohinder Singh a customer of the bank short by Rs. 2700. The said customer was handicapped person and shortage could not come to his notice at that time and when it came to his notice, the same was reported. It is further pleaded that subsequently the petitioner connived with one Krishan Lal who raised a claim of Rs. 2700 on the plea that on 2-12-1987 he deposited the amount of Rs. 2700 but the credit was not given to him and he had with him counter foil and foil with the signatures of the petitioner. But when the enquiry was made as to how the said sequence of events took place, the petitioner and Krishan Lal both confessed and deposited the amount and it also came to light that the petitioner had taken Rs. 2000 whereas Krishan Lal has taken Rs. 700. It is further pleaded that the order passed by the disciplinary authority as well as Appellate authority are bona-fide and in accordance with the principle of natural justice. The provisions of Sastri Award/Desai Award and Bipartite Settlement were also observed. It is further pleaded that since the petitioner had confessed in the presence of his representative there was no necessity to prove the same and prayed that the reference be dismissed.

4. Replication was also filed reasserting the claim made in the statement of claim.

5. In support of his case the petitioner examined himself as WW1 and filed his affidavit Ex. W1 in evidence. The management produced Shri G. D. Sharma as MW1 who filed his affidavit Ex. M1 in evidence. The workman got proved document Ex. W2 proceeding of the Deputy General Manager and Ex W3 the charge sheet.

6. I have heard both the parties and gone through the evidence and record and written Arguments.

7. The workman has not contested his case on merits. He has only prayed for the intervention of this Court Under Section 11-A of the I.D. Act 1947. In this connection it has been argued that he has put in service of more than 12 years and the said incident is the solitary incident. The amount has already been deposited and that he had been facing the proceedings right from 1988 when he was dismissed from service. I have perused the averments made in this respect by the representative of the petitioner. The petitioner is in the service of the bank since 1976. Present incident is the solitary incident otherwise he possess of an unblemished record of service as there is no evidence of any past act of misconduct hanging over his head. The amount has already been deposited and thus has accrued no loss to any body. Present Act is beneficial piece of legislation enacted in the interest of employees. In construing the provisions of a welfare legislation Courts should adopt a beneficial rules of construction. If two constructions are reasonably possible, the construction which furthers the policy and object of the Act and is more beneficial to the employees, has to be preferred. Further, the object of the Act is to safeguard the service conditions of the employees. It, therefore, demands a liberal interpretation.

The petitioner has already suffered the agony of facing departmental proceedings and the long trial and the justice must be tempered with mercy and the erring workman should be given the opportunity to reform himself are principles which should be kept in mind while dealing with punitive action taken against the workman. The petitioner has already confessed his guilt during the course of enquiry, before the disciplinary authority as well as appellate authority. Due credit should be given to his mercy. Following the decision laid down in AIR 1984 Supreme Court 355 Jaswant Singh Vs. Pepsu Road Transport Corporation and 1990 L.I.C. 1531 M.D. Orissa Agro Industry Corpn. Vs Bhim Sain Maharana and others, the punishment of the dismissal of the petitioner is hereby substituted with the stoppage of two increments with cumulative effect, however with continuity of service. The petitioner shall not be entitled to back wages at all. The management is directed to reinstate the petitioner within four weeks from the date of publication of this Award. With this modification in the punishment the Award is returned to the Ministry.

Chandigarh.  
18-1-1993.

ARVIND KUMAR, Presiding Officer  
Central Govt. Industrial Tribunal

नई दिल्ली, 26 मार्च, 1993

का. आ. 793.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, सेंट्रल बैंक आफ इंडिया के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-3-1993 को प्राप्त हुआ था।

[संख्या एल-12012/344/86-डी-2 (ए)]

बी. के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 26th March, 1993

S.O. 793.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workmen, which was received by the Central Government on 26-3-1993.

[No. L-12012/344/86-(D2A)]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE SRI ARJAN DEV PRESIDING OFFICER  
CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL CUM LABOUR COURT PANDU  
NAGAR, KANPUR

Industrial Dispute No. 11 of 1989

In the matter of dispute between :

S/Sri Anurag Saini & Brij Kumar Tripathi C/o  
S K. Kulshreshtha 6 P & T Colony Agra.

AND

The Regional Manager Central Bank of India  
Belanganj Agra.

AWARD

1. The Central Government, Ministry of Labour, vide its notification no. 12012/344/86-D.2(A) dated 5-1-89 has referred the following dispute for adjudication to this Tribunal.

Whether the action of the management of Central Bank of India in terminating the services of S/Sri Anurag Saini, Brij Kumar Tripathi and Dharampal Singh and not considering them for further employment while recruiting them for further employment while recruiting fresh hands under section 25-H of the I.D. Act is justified. If not to what relief are the concerned workman entitled?

2. In this case on 29-10-91 an order for giving a no claim award was passed which was subsequently recalled on 4-2-92 on the application of the authorised representative Sri K N Soni for workman Anurag Saini. Thereafter (except Sri Anurag Saini, none other workmen appeared in the case, despite issue of notice.

3. On 10-2-93, workman Sri Anurag Saini moved an application to the effect that the workman had entered into an agreement with the bank and that the bank would afford him an opportunity for appearing in the test and that in the light of the agreement he does not want to prosecute his case any more against the bank. He has, therefore, requested that the dispute may be treated as closed.

4. Therefore, in his case the reference is decided in terms of application moved by him (Sri Anurag Saini) entitling him to no relief.

5. As regards workmen Sri Brij Kumar Tripathi and Dharmbpal, a no claim award is given in their favour as they seem to be not interested in prosecuting their case any more for otherwise they must have appeared in the case after receipt of the notice of the Tribunal.

6. Reference is answered accordingly.

ARJAN DEV, Presiding Officer

नई दिल्ली, 26 मार्च, 1993

का. आ. 794.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, सेंट्रल बैंक आफ इंडिया के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-3-1993 को प्राप्त हुआ था।

[संख्या एल-12012/28/90-आई आर बी-2]

(बी. के. वेणुगोपालन, डेस्क अधिकारी)



New Delhi, the 26th March, 1993

S.O. 794.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workmen, which was received by the Central Government on 26-3-93.

[No. L-12012/28/90-IRBII]

V. K. VENUGOPALAN, Desk Officer

#### ANNEXURE

BEFORE SRI ARJAN DEV, PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRI-  
BUNAL-CUM-LABOUR COURT, PANDU NAGAR,  
KANPUR

Industrial Dispute No. 172 of 1990  
In the matter of dispute

#### BETWEEN

Secretary,

Central Bank Staff Association,  
C/o. Central Bank of India,  
Hazaratganj, Lucknow.

#### AND

The Regional Manager,  
Central Bank of India,  
Regional Office,  
Hazaratganj, Lucknow.

#### AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-12012/28/80/90-D.I.D. dated 3-8-1990 has referred the following dispute for adjudication to this Tribunal:—

Whether the action of the management of Central Bank of India in imposing the punishment of stoppage of increments on Sri Gulab Bhagwani, clerk is justified? If not, to what relief the workman is entitled?

2. The admitted facts are that the workman Sri Gulab Bhagwani while he was working as Assistant Cashier-cum-Godown Keeper at Hazaratganj Branch, Lucknow was served with chargesheet dated 17-2-1983, copy Ext. W.1. The relevant portion of the two charges read as under:—

1. That on 10-7-1980 Sri A. P. Mishra, Chief Cashier, Hazaratganj Branch was asked to depute one cashier for lodging insured parcel at G.P.O. Lucknow. He asked Sri R. C. Nigam, acting Chief Cashier to take the Parcel to the post office. But at the same time Sri Gulab Bhagwani who had been allotted to duty of sorting of G. C. Notes

requested Sri A. P. Mishra that he may be sent to post office for delivering the parcel at the post office and the work of sorting the G. C. Notes may be allotted to any other person. According to his request Sri A. P. Mishra handed over five insured packets containing foreign currency notes worth Rs. 30,000 (approximately) to Sri Gulab Bhagwani with an advice to deliver the same at GPO Lucknow for mailing them to our London Branch.

At about 11.30 a.m. Sri Bhagwani left the office with these packets. Later on at about 2 p.m. on the same day Sri Bhagwani reported over telephone to the branch Manager Lucknow regarding theft of two packets out of the five packets at the G.P.O. counter. These two packets which are alleged to have been stolen away from his possession at the G.P.O. counter contained the following currency notes having value of Rs. 11,841.35.

Mr. Bhagwani has thus misappropriated the foreign currency contained in the aforesaid two packets and caused a loss of Rs. 11841.35.

2. While tallying the cash book of Hazaratganj Branch Lucknow for 1-10-1981 it came to notice that the cash payment was short by Rs. 22,000 as compared to the summary total of all payment books as also the summary total of the cashier payment book.

Thus it is evident that the cash of the branch was short by Rs. 22,000 on 1-10-81 and the same has been embezzled by Sri Bhagwani. Further, Sri Gulab Bhagwani is accountable for the aforesaid shortage because he was officiating as Chief Cashier on 1-10-1981. Had he been careful the above shortage of Rs. 22,000 would not have occurred. Mr. Bhagwani's commissions and/or commissions have caused loss to the bank to the tune of Rs. 22,000 and his overacts for causing shortfall are prejudicial to the interest of bank.

In the beginning Sri B. N. Tandon was appointed as Enquiry Officer but later on he was replaced by another officer of the bank, namely, Sri S. Trivedi. Sri Trivedi gave his findings dated 15-3-1985 copy Ext. M.1, holding the two charges as proved. The Disciplinary Authority agreed with the findings given by the E.O. and issued a notice dated 8-1-1986 copy Ext. M.3 to the workman calling upon him to show cause why punishment of stoppage of two future increments permanently in respect of the first charge and stoppage of one future increment permanently in respect of the second charge be not awarded to him. After considering pleas placed before him by the defence representative, the Disciplinary Authority vide its order dated 21-1-1986 copy Ext. M.5, confirmed the proposed punishments, with the direction that the punishment

on the two charges, would run concurrently. Against the order of the punishment passed by the disciplinary authority, the workman filed an appeal which was dismissed by the Appellate Authority by means of its order dated 28-5-1986, copy Ext. M.6.

3. The Union has assailed the order of punishment on the grounds that the inquiry was not conducted fairly and properly; that the inquiry officer was biased and prejudiced against him; and that the findings given by the E.O. and confirmed by the Disciplinary Authority and Appellate Authority are perverse. The Union has, therefore, prayed for setting aside the order of punishment.

The management on the other hand pleaded that the grounds on which the order of punishment has been challenged by the Union on behalf of the workman has no legs to stand upon. The inquiry was conducted fairly and properly; the E.O. was neither biased nor prejudiced against the workman; and that the findings given on the charges are not perverse.

5. On 13-5-1992, from the side of the Union an application was moved by Sri B. P. Saxena, that the Union does not press the ground taken by the Union that the inquiry was not conducted fairly and properly. I may state here that during the course of arguments, Sri Saxena even did not advance any arguments on the plea raised by the Union that the E.O. was biased and prejudiced against the workman. Therefore, the only point to be examined in the case is whether the findings given by the E.O. on the two charges and accepted by the Disciplinary Authority & Appellate Authority are perverse or not. It is only on this plea of the Union that arguments have been submitted by the auth. representatives of the parties.

6. On the charge No. 1 it has been contended by Sri Saxena on behalf of the workman that there is no evidence from the side of the bank on the point that the two parcels which were got lost contained foreign currency. The bank did not examine any of its officer or employee to prove that he had put the foreign currency in the two sealed parcels. Secondly, there is no evidence that the foreign currency if it was there in the two parcels was misappropriated by the workman. Even the necessary precautions such as providing of an Armed Guard or atleast a peon carrying suitable weapons for defence was not provided to the workman when he left for the post office for despatch of insured parcels.

7. I have heard Sri A. K. Saxena, an officer of the bank who argued the case on behalf of the bank and after going through the evidence recorded on charge No. 1 during domestic inquiry, I find that the findings recorded by E.O. and confirmed by the Disciplinary Authority & Appellate Authority cannot be upheld.

8. Under the order of the court the bank filed extract of manual of procedure for remitting cash by post. It is Ext. M.7. At page 83, it is provided that after taking out the required bundles of notes for making up the remittance to be made, the same should be packed and sealed by the authorised assistants of the Cash Department in the presence of

one of the authorised officers of the Accounts Department. It is essential that the closing the packets should be done in his presence and he should see that all the bundles making up the remittance are put in the packet before it is closed and bound up. It is not denied even by Sri A. K. Saxena the authorised representative for the bank that any employee of the cash department was examined by the bank at the inquiry in support of charge No. 1. At page 84 of the procedure bearing heading (Conveyance to Post Office) it is laid down that such parcels should be handed over to the shroff or other member entrusted with the carrying of the parcel to the post. Such member should affix his signatures in the register of cash transits in token of his having taken parcel. The parcel should then be affixed with acknowledgement due cared and the member should take to the post office accompanied by an armed guard or atleast a peon carrying a suitable weapon for defence like a kirpan or loaded lathi.

9. Sri A. K. Saxena, for the bank says that the workman himself offered to take the parcels to the post office and so it is not open on behalf of the Union to say that no armed guard or an armed peon was provided to the workman while leaving the branch for the G.P.O. Lucknow. The workman who was examined after the close of evidence adduced by the bank has however stated before the E.O. that on 10-7-80 he was allotted the work of sorting of currency notes by the Chief Cashier. As soon as he had started sorting the Chief Cashier asked him whether he would like to go to G.P.O. for posting packets. This suggestion was made by the Chief Cashier to him because Sri Nigam, Head Cashier was not free and in case Sri Nigam had gone to G.P.O. it would have caused difficulty in the department. At he refused to go to G.P.O. as he had started his job of sorting but when the Chief Cashier insisted, he agreed to go to the G.P.O.

10. Even if it be believed that the workman had himself offered to go to G.P.O. for despatch of these insured parcels, the Chief Cashier should not have allowed him to go alone unaccompanied by an armed Guard or an armed peon as per procedure laid down. Even if the workman had said that there was no harm in going alone, the Chief Cashier should not have allowed him to go alone. In case the workman had not agreed to be accompanied by an armed guard or an armed peon, then the insured parcel should not have been sent through him for despatch to the post office (G.P.O.).

11. Workman's version was that when he was affixing postage stamps on the parcels and had affixed stamps on two parcels, some body called him from back saying that he had dropped some money. As soon as he turned back he found some coins lying scattered on the floor. He again turned towards the packets to finish the remaining job of affixing stamps, but to his surprise in the meantime, some one had escaped with two parcels. He reported the matter to the post master and then informed the branch on telephone. Therefore until his version is disbelieved he cannot be held guilty of misappropriation of money. This could have been proved by the management from his past conduct or from further events such as recovery of some currency notes from his possession or the possession of his near or dear ones

or his having been seen selling the foreign currency. There is no such evidence from the side of the management. Hence, I hold that charge No. 1 does not stand proved at all and the findings given by the inquiry officer which were later on confirmed by the disciplinary authority and the appellate authority on this charge were perverse. Being so he cannot have been awarded any punishment on this charge.

12. On the second charge, the E.O. has observed as follows :—

Briefly the facts are that the cash book of the branch was not upto date and when it was being tallied in October 1981, it was found that some vouchers were missing for 1-10-81, and therefore, it could not be tallied. On further scrutiny it was observed that cash payment scroll No. 3 vouchers and also the pages of the cashier's payment book were not available. It was, therefore, not possible to tally the cash book. The cash payment side of the cash book showed a shortage of Rs. 22,000. The cash memo of 1-10-1981 clearly establishes that cash was balanced on 1-10-1981 and it was in order. Thus on the relevant date, the cash was closed after proper verification and there was no shortage. The detected shortage remains shrouded in mystery. It would be, therefore, difficult to pinpoint the shortage of Rs. 22,000 on 1-10-1981.

I may state here that the second charge consists of two parts. The first part relates to the alleged embezzlements of amount of Rs. 22,000 on 1-10-1981 by the workman and the second part referred to alleged omission and/or acts commission committed by the workman resulting in the shortage of the said amount. So far as the first part is concerned there is no evidence from the side of the management.

13. The observations made by the E.O. that it is difficult to pin point shortage of Rs. 22,000 on 1-10-1981 has not been challenged from the side of the management. No doubt the E.O. has observed about the hotch potch working of the cash department but for that the workman cannot be held responsible as according to him this practice had been continuing from before his taking over charge of the cash department as Chief Cashier. It is admitted by the workman at page 59 of his statement of the inquiry proceedings that he held the officiating charge of Chief Cashier of the branch from 26-9-1981 to 3-11-1981. When according to the Enquiry Officer the shortage of Rs. 22,000 could not be pinpointed on 1-10-1981 and that the detected shortage remained shrouded in mystery. How it can then be said that this shortage had taken place during the period of officiation of the workman. Therefore, to my mind, even this part of the charge does not stand proved.

14. When findings of the two charges cannot be sustained, being not based on evidence and circumstances, the order of punishment too cannot be sustained.

15. Hence in view of what has been stated above the action of the management of Central Bank of India in awarding the punishment of stoppage of increments on Sri Gulab Bhagwani is unjustified. Conse-

quently, the workman is held entitled to draw his annual increments in the scale of wages available to him as usual.

16. Reference is answered accordingly.,

ARJAN DEV, Presiding Officer.

नई दिल्ली, 2 अप्रैल, 1993

का.जा. 795.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, 'केंद्रीय सरकार, यूनाइटेड बैंक ऑफ इंडिया के प्रवर्धन के संबंध में नियोजकों और उन कर्मचारियों के बीच अनुबंध में निम्नलिखित औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण कृतकता के पंचद को प्रकाशित करती है, जो 'केंद्रीय सरकार 31-3-1993' को प्राप्त हुआ था।

[संख्या. एल-12012/157/85-डी-2(ए)]

वी. के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 2nd April, 1993

S.O. 795.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of United Bank of India and their workmen, which was received by the Central Government on 31-3-1993.

[No. 12012/157/85-DIIA]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
AT CALCUTTA

Reference No. 6 of 1986

PARTIES:

Employers in relation to the management of United Bank of India.

AND

Their Workmen.

APPEARANCES:

On behalf of Management.—Mr. R. N. Majumder  
Advocate.

On behalf of Workmen.—Mr. Jayanta Biswas, Advocate

STATE: West Bengal.

INDUSTRY: Banking

AWARD

PART-I

By an Order of Reference No. L-12012/157/85-D.II(A) dated January 20, 1986, the appropriate Government, referred the following dispute :—

"Whether the action of the management of the United Bank of India, Head Office, Calcutta in imposing the punishment of dismissal on S/Shri Manabend

Saikia, Head Cashier, Maheshwar Jha, Driver and Mrinal Chowdhury, Relieving Sub-staff, withdrawal of a special allowance in respect of Shri Sreedan Mondal, Daftary and stoppage of annual increments of S/Shri Tapas Kumar Banerjee, Clerk, Amit Roy Chowdhury, Clerk, Ravindra N. Karmakar, Head Cashier, Ashoke Kumar Goel, Clerk, Shashi Kant Chowdhury, Clerk, Indrajit Prasad, Sub-staff, Paradip Chakraborty, Cash Clerk, Rajender Ojha, Sub-staff and Sachin Ray, Armed Guard is justified and the management has not adopted any unfair labour practice? If not, to what relief the workman concerned are entitled?"

for adjudication to this Tribunal, in exercise of their powers under Section 10(1)(d) (2A) of the Industrial Disputes Act, 1947 (hereinafter referred to as the said Act).

2. The Reference contains various issues, including the issues relating to the bona fide, justification or otherwise of the terminations by way of punishment of (1) Sri Manabendra Saikia, Head Cashier, (2) Sri Maheswar Jha, Driver and Sri Mrinal Chowdhury, Relieving Sub-staff and there were other different disputes in respect of different staffs of the United Bank of India (hereinafter referred to as said Bank), apart from the fact, that the case of one Krishna Kumar, a sub-staff, was added by Corrigendum dated May 20, 1986. The representations in the disputes were made by two Trade Unions. Sri Saikia's case was represented by the United Bank of India Employees Union (hereinafter referred to as the said Union) and the other disputes were represented by United Bank of India Sramik Karamachari Samity (hereinafter referred to as the said Samity), by filing their separate written statements.

3. The said Union, by their written statement, filed on February 12, 1986, has made it clear that they will only take up the case of Sri Saikia, Head Cashier of Duliajan Branch and who was a member of their Union and also belonged to Scheduled Tribe. But, such specification of the character, in my view, will not be a very material point or issue in this case. The said Samity filed their written statement in respect of the issues other than that of Sri Saikia on March 4, 1986. I shall first deal with the statements and the case in Sri Saikia's as his case was argued first and separately.

4. It was the case of the said Union that Sri Saikia, at the relevant time was their Unit Secretary and he was served with a Charge Sheet dated April 28, 1983, as included in Exhibit M-1. The charge sheet itself was of course marked 'Y' for identification. The charges as levelled, were as under :

- (i) Riotous/disorderly/indecent behaviour on the premises of the bank (gross misconduct).
- (ii) Failing to show proper consideration, courtsey towards superior officers of the Bank and unseemly or unsatisfactory behaviour while on duty (minor misconduct).
- (iii) Doing an act prejudicial to the interest of the Bank (gross misconduct). Additionally
- (iv) Assaulting your superior officer on the premises of the bank during office hours.

Those charges were claimed and alleged to be false and baseless. It has also been indicated that by his reply dated May 9, 1983, Sri Saikia duly replied to the charges and duly refuted them. It would appear from the allegations in the charge sheet that Sri Saikia was charged on the basis of some incidents and behaviour, said to have taken place on April 21, and 22, 1983, the particulars whereof will be indicated hereafter. It would also appear that for the incidents or happenings on the above dates, both Sri Saikia and one Sri M. C. Nath, the Agent of the Branch, whose complaint was the basis of the charge sheet, appeared before the local Police Station and filed a Memo of compromise as produced, on April 2, 1983 and requested the Officer-in-Charge of the Duliajan Police Station, to withdraw the case or not to proceed with the same, which was lodged on the untoward incidents that took place between them in the Bank premises, as the matter was settled amongst themselves, amicably. This

record, it will appear, was also signed by four other witnesses. By the said record, the parties informed that thereafter, they would keep and maintain good relationship. The F.I.R. in this case, was lodged by Sri M. C. Nath himself and not by the said Bank. The said Sri Nath, as stated, was the Agent of the concerned Branch of the said Bank at the relevant time.

5. It has been alleged by the said Union that from the facts as indicated in paragraph 4 above, there will be no doubt that the complaint as made and the Charge Sheet as mentioned earlier and issued, was untrue, baseless and misconceived, apart from being illegal and motivated. It has also been indicated that since Sri Saikia was a bona fide Trade Unionist and was holding an important post of the said Union as indicated earlier, so he, was very much loved, liked and respected by the employees and was very popular and for that, the said Bank, with ulterior motive to oppress him, issued the charge sheet and ordered a domestic enquiry into the charges to be held and in fact, got such enquiry conducted and concluded, without following the principles of natural justice and with a biased and closed mind. It has also been alleged that the Enquiry Officer, not only misdirected himself in returning a verdict of guilt against Sri Saikia, but, he also acted in a partisan manner. It should further be noted that the Enquiry Officer himself, on evidence, found some of the charges as levelled, to be incorrect and motivated. The said Union could not disagree that at least, in respect of those findings, the self same Enquiry Officer acted duly and bona fide. It has further been alleged, in the enquiry, Sri Saikia did not get reasonable and ample opportunities to prove the false and baseless allegations levelled against him and the enquiry was conducted, without following the principles of natural justice. It is true that after the findings in the enquiry, Sri Saikia was served with a letter of dismissal dated April 6, 1984 (Exhibit M-33) and ultimately, by an Order dated June 20, 1984 (Exhibit M-34), he was dismissed from service, and then, a dispute was raised with the Labour Commissioner (Central), for intervention and the said Samity also moved in respect of the other disputes as indicated in the Reference. There is no doubt that all those disputes including the one relating to Sri Saikia, were referred for adjudication on clubbing, in a common order of Reference. the particulars whereof have been quoted earlier.

6. It has been stated by the said Union that the said Sri Saikia preferred an Appeal (Exhibit M-35), against his order of dismissal, which was claimed and required to be dealt with and disposed of by the Bank, within 30 days. But that was not done and on failure of a futile conciliation, this Reference was made.

7. On the facts of the case of Sri Saikia, the said Union has claimed that he was not guilty of any misconduct and the allegations against him were false and motivated. He was proceeded with, victimised and punished illegally and wilfully, for his popularity and bona fide Trade Union activities. The enquiry as held, cannot stand the test of fairness and the Enquiry Officer himself, acted as a Judge and Prosecutor and he also, as stated, acted in a partisan manner. It has been indicated that he could not duly follow and consider the effect of the Memo of Compromise, filed by the parties. He also could not consider that the tilt of the balance, on evidence, was in favour of Sri Saikia. The said Officer further failed to consider that the necessary formalities in the disciplinary proceedings were not appropriately complied with and followed and the action as taken, was against or in violation of the provisions of the said Act. It should be noted that the said Bank filed their Rejoinder and/or reply to the written statement of the said Union, on January 16, 1987, and Schedule II of that statement, was specifically against Sri Saikia and have indicated that the order of Reference was directed against various issues including the order of punishment as imposed on 13 others or several workmen, arising out of seven incidents occurring at different places/Branches and offices of the said Bank from time to time. Those incidents again, were stated to be of gross misconduct. The said Bank has filed the above Rejoinder, in addition to their said statement dated 28, 1986, filed against the statement filed by the said Samity. In fact, the above mentioned Schedule II has also been annexed with this Rejoinder and the earlier statement. But, such objection about the maintainability of the Reference, has really become honest, futile and not available, in view of the subsequent

stand as taken by the said Bank or on the basis of their subsequent conduct and submissions, the particulars whereof would appear hereafter.

8. The said Bank, has stated that on April 21, 1983, Sri Saikia, met the Agent, Duliajan Branch of the said Bank and arrogantly asked him to release one Sri S. N. Chowdhury, Clerk, under orders of transfer of Lala Branch, positively on April 23, 1984 and also informed that he has already asked the said Sri Choudhury, to purchase his tickets for that date. I fail to understand what official authority Sri Saikia had, for directing purchase ticket. It has been stated that the Agent and the Accountant, tried to impress upon him that it would not be possible for the Branch to release Sri Choudhury on April 23, 1984, as there was shortage of staff and moreover, the said Sri Choudhury, cannot be transferred, unless a substitute was available. It has also been stated that hearing such, Sri Saikia lost his temper and became furious and abused the Agent in vulgar languages. This, was stated to have happened round about 12 noon. It has also been stated that, then at about 1.30 p.m., Sri Saikia came to the Agent and claimed 21 days salary for one Sri Joydev Dey, for February, 1983 who was an empanelled Sub-staff of Naharkatia Branch, and at the relevant time, was engaged at the concerned Duliajan Branch, in leave vacancy and the Agent tried to impress upon Sri Saikia that the said Sri Dey has already been paid his salary for the days he has actually worked in that period and he, in fact, did not work for the days under demand and then again, Sri Saikia also became arrogant and he, not only misbehaved, but also used filthy languages against the Agent. It was the case of the said Bank that the Agent proposed and showed his inclination to pay the necessary wage to the said Sri Dey, an amount of advance against his salary for 21 days, pending approval of the Regional Manager, North Eastern Region, Guwahati, but the said Sri Saikia, refused to accept such proposal and also threatened him with dire consequences and ultimately, compelled him to pay, and really under duress, the said 21 days salary was paid to the said Sri Dey, on April 22, 1983.

9. It has been alleged that when, on that day, the Agent was asking the said Sri Dey, as to why and how could he sign the attendance Register on April 22, 1983, when he was specifically asked not to join duty, as there was no leave vacancy for the day, the said Sri Saikia came and interrupted and told the Agent in a harsh manner that under his advice, the said Sri Dey had signed the concerned Register and he also worked on his advice. It has further been indicated that when the Agent tried to impress upon the said Sri Saikia that he had no such authority, then again, he threatened the Agent with dire consequences. It has been indicated that on the suggestions of the said Sri Saikia, the Agent had discussions with him, where, other officers and members of the staff were present and at the outset, the Agent was accused by the said Sri Saikia in an offensive tone and he asked him to put his initials in respect of the said Sri Dey, in the attendance Register, which he brought. It has been stated that the Agent disagreed to such action, on which, the said Sri Saikia got enraged and caught hold of the collar of the Agent and gave several blows on his head, for which, the Agent had to take Medical Assistance. It has also been alleged that the Agent could escape further blows from Sri Saikia, due to the intervention of others, present there. It has been alleged further that the attempt of the Agent to inform the Police was foiled and frustrated by the said Sri Saikia, as he tore the Telephone Line and ultimately, finding no other alternative, the Agent lodged the F.I.R. as mentioned earlier. It has also been alleged that at about 8.30 p.m., when the Agent was proceeding towards his residence from the Police Station, the said Sri Saikia again threatened him with dire consequences, and also threatened to kill him.

10. For the reasons and the back ground as above, Sri Saikia was charged for (a) Riotious/Disorderly/indiscent behaviour on the premises of the Bank and for that (b) failed to show proper consideration, courtesy towards other employees of the Bank, un-seemingly or unsatisfactory behaviour while on duty, over which, as stated earlier, on enquiry as indicated, was started on March 25, 1983 and concluded on March 27, 1983. It has been stated that at the enquiry, both the parties tendered their evidence, both oral and documentary and after full, complete and due opportunities to the said Sri Saikia, the Enquiry Officer duly recorded the proceedings and found him guilty to the effect

that the charge of assaulting the Agent, Sri M. C. Nath, by Sri Saikia, was proved, apart from indicating that there was no justification for a subordinate staff like Sri Saikia, to take the law in his own hands, in the matter. The Disciplinary proceedings, records of the same and the documents as tendered and considered, have been marked collectively as Exhibit M-1. The enquiry was claimed to have been duly and bonafide held, where the said Sri Saikia was also afforded all and every reasonable opportunities. It has further been indicated that the Disciplinary Authority, concurred with the findings as arrived at, at the enquiry (Exhibit M-33) and after further opportunities, dismissed Sri Saikia from the services of the Bank by Exhibit M-34. It is true that from that decision, an appeal (Exhibit M-35) was taken, and the same was also rejected by Exhibit M-36 and the punishment as imposed, confirmed. It has also been stated that at the enquiry, the principles of natural justice were also duly followed and complied with.

11. A rejoinder was filed on January 19, 1987, by the said Union against the above written statement of the said Bank. In this statement, the material allegations were denied and the case as indicated earlier, was repeated and reiterated. It has been indicated that the said Sri Saikia, being the Secretary of the said Union of the concerned Branch, was duly authorised and was obliged to take the steps as mentioned earlier, against the act or actions of the Agent and that too, for protecting the interest of the Union members. It has also been alleged that the Agent called him a "Fai u" and that word, has an ignominious meaning in Upper Assam. It has been stated that on the other hand, the Agent threatened Sri Saikia, to have him apprehended by police. It has further been indicated that Sri Dey was directed to be released on April 23, 1983 and the Agent advanced him Rs. 900 to meet the liabilities at Duliajan and also for purchase of the Railway tickets and he of his own, asked for the opinion of Sri Saikia. The aforesaid statement amongst others, could have been made by the said Sri Saikia or by the deponent, Sri Keshab Chandra Sen, a retired employee of the said Bank, from informations received from Sri Saikia. But unfortunately, he has affirmed everything as true to his knowledge, except those, which were his submissions. Thus, most of the material and relevant statement in the rejoinder, cannot be looked into, relied upon and considered. Even if the deponent had made the relevant statements, basing them on informations received from Sri Saikia, they could have been looked into and considered. Thus, the new case as sought to be made out now and at this stage, cannot be taken into consideration. I further keep it on record that most of the statements as sought to be made out now in the Rejoinder, could have been within the knowledge of the said Sri Saikia or if at all, matters of record or informations received from Sri Saikia and in view of the matter, the statements as made now, were not on proper verification. Thus, I shall have to rely on the statements as made in the initial written statement filed by the said Union and the records as produced and made available, only.

12. Sri Anjan Chatterjee, who, in 1984, was the Assistant Chief Officer, Personnel Department in the Disciplinary Proceedings against Sri Saikia, deposed as M.W.9. He deposed that Exhibit M-31 dated April 6, 1984, related to the punishment of dismissal inflicted on Sri Saikia and by that letter, the date of personal hearing was also fixed and the record was under the signature of the Chief Officer, Sri P. K. Sengupta. He also produced and proved documents in Exhibit M-32 series, relating to the personal hearing in respect of the punishment as proposed in the case of Sri Saikia. He further produced and proved Exhibit M-33 i.e. the dismissal order of Sri Saikia and also the order of dismissal Exhibit M-34, signed by the said Sri Sengupta. He said that by Exhibit M-35, Sri Saikia preferred an appeal, which was rejected by Exhibit M-36, by the Appellate Authority and by the order in Exhibit M-37, such order of rejection of the appeal was confirmed and he further pointed out that by Exhibit M-38, Sri Sengupta, duly scanned the grounds of appeal and thereafter, by Exhibit M-40, the ultimate decision was communicated to Sri Saikia. The witness has ofcourse, very fairly agreed, that he had nothing to do with the making of the aforesaid documents. On being asked, he indicated that Exhibit M-31, M-32, M-34 and M-40 have

been signed at proper places. So also, was his evidence in respect of Exhibit M-31 and he candidly contended that he did not take part in the proceedings and his depositions were on the basis of the records. M.W.-1, who at the time of deposition was the Chief Officer, legal Cell of the said Bank, was appointed, the Enquiry Officer in the cases, including that of Sri Saikia. The letter appointing him as the Enquiry Officer is included in Exhibit M-1, as indicated earlier. He also produced and proved the charge sheet against Sri Saikia, which is also included in Exhibit M-1. He stated that Sri P. K. Sengupta was the Chief Officer of the Personnel Department at the time of issuing the charge sheet against Sri Saikia. There was no dispute on the above facts.

13. It was his evidence that the domestic enquiry was held under instructions of Guwahati Office and Sri Saikia was an employee of Duliagan Branch and on asking, he gave directions to produce, the copy of the investigation report by Sri P. K. Roy for inspection by Sri Saikia and his representative and such record, which was a preliminary investigation report, was actually produced. It was his further evidence that the delinquent, on being asked, intended to produce his defence witnesses and in fact, he got Sri Umakanta Phukan examined. This witness has categorically stated that Sri Saikia informed him that he would have some more defence witnesses from Duliagan, if the said Bank pays for the costs of their journey. He has further indicated that Sri Saikia brought the said Sri Phukan, as his witness and has refused to recommend to the said Bank, for production of the witnesses named by him, at their cost. It was his specific and categorical denial that Sri Saikia asked for the examination of Sarbasree S. N. Choudhury, Clerk, Radhamohan Das, Loknath Das and Jeydeb Dey, Sub-staffs of Duliagan Branch or that those witnesses could not come to depose for non-payment of costs by the said Bank. In fact, he had no idea regarding the same or that is why, the enquiry was held at Guwahati instead of Duliagan, which is away from Guwahati, so that if for that reasons, the witnesses could not come and attend.

14. The witness has spoken about the filing of the F.I.R. on the basis of the knowledge of witness No. 1 before him and that the said dispute was settled. But he has declined the suggestion that he did not duly consider the said settlement, while making his report. He has further stated that the Agent produced no evidence regarding the assault at the enquiry and in spite of requests for production of such record by Sri Saikia, he did not consider such prayer. He has also denied that his report was perverse or made with a partisan view.

15. Sri Saikia deposed as WW-1. He has agreed to have been dismissed on the basis of a domestic enquiry on charges levelled against him and M.W.-1 was the Enquiry Officer. He has further agreed that before such enquiry, a preliminary fact finding enquiry was held, in respect of the incidents as happened at Duliagan, by Sri P. K. Roy, when he made statements. It was his evidence that in that enquiry, two officers of Duliagan viz. Sarbasree Shymalendu Das, Kalayan Chakraborty and another Clerk Sri S. R. Nandi Majumder, made statements and further, he has not got the copy of that report. It was his evidence that he made a request for the production of that report at the enquiry, but the said Bank did not produce the same. He agreed that there was an F.I.R. filed and the Police Officer recorded this, as well as the statement of the Agent and the dispute was ultimately settled amicably and as such, no Criminal Proceeding was started. He has also stated to have requested M.W.-1, to have the said F.I.R. and the settlement, produced at the enquiry, but such request was not acceded to.

16. It was the evidence of this witness that since Duliagan is a far away place from Guwahati, so, he requested that the enquiry be held at Duliagan, as his witnesses were from that place and even during the course of the enquiry, such request was made but that was refused. It was his further case that before the enquiry, the names as mentioned earlier, were indicated, to be his witnesses. But, the Enquiry Officer did not call them, even though, they were willing to come and depose, provided of course, they were paid the Railway

fares. It was also his case that he requested the Enquiry Officer, for arranging for the presence of those witnesses, but he took no steps. It was the specific claim of this witness that on being asked, he specifically mentioned the names of the employees as above, as his defence witnesses. It was the further evidence of this witness that even on his asking, the Enquiry Officer did not take any steps to have the Medical Report and X-Ray Report, produced. He has further stated, to have given the names of his witnesses, to the Enquiry Officer in writing, but he did not give any receipt and his prayers, for production of records and witnesses, have not been recorted, although he asked for such recording. It of course appeared that the requests as above, were ultimately said to be made orally. I should keep it on record that it was not obligatory for the said Bank, to pay for the Railway fares of the defence witnesses.

17. From Exhibit M-2, a forwarding letter dated March 19 20, 1984, it will appear that MW-1, along with that Exhibit, forwarded to the Assistant Personnel Manager, 34 documents, which were exhibited at the enquiry, as held by him and the Enquiry Report, was also filed in this proceedings alongwith that Exhibit.

18. Mr. Majumdar, appearing for the said Bank, after placing the order of Reference, pointed out and argued that such clubbing of many issues as indicated earlier in one Reference, was improper and that made the said Reference, illegal, ineffective, irregular and void ab initio, apart from the fact that, such clubbing of several issues showed, non application of mind and making of the Reference in a stereo type manner and form. This point, although has not been specifically taken in so many words, but, on a reference to the statement filed by the said Bank against the written statement of the said Samity, Mr. Majumder pointed out that even though not in so many words, but such point, has really been taken and argued before my predecessor-in-office and he has dealt with the character of the Reference. In his Award dated August 27, 1990, whereby, he found inter alia amongst others and that too on consideration of the materials on record that the proceedings of the domestic enquiry, held against Sri Saikia, was valid and in paragraphs 18 and 22 of that Award, he has observed respectively that the present Reference in the form as made, involve as many as seven domestic enquiries and punishment of different kinds from stoppage of increment to dismissal, in a jumbled up manner and that too, creating complications and difficulties in the matter of adjudication and in dealing with Exhibit W-1, which was stated to have been filed at the instance of some other workman in the Reference, cannot be utilised in respect of the case of Sri Saikia. There was no due basis for such submissions, as all the concerned workmen are involved in one Reference, which has been sent to the Tribunal for adjudication and the preliminary issue with regard to the validity of the domestic enquiries in the Reference, has been heard first and the documents have been produced, both from the side of the said Bank and also from the workmen. In addition to the observation as made in this paragraph, I feel that such stand as taken by Mr. Majumder, was no longer available, for the subsequent stand as taken, the relevant particulars whereof would be indicated hereafter.

19. It has also been indicated that it may be that, the delegation of powers, for taking disciplinary action (Exhibit W-1), was not produced by Sri Saikia, but the said Exhibit has been produced at the instance of some other workman, in connection with the hearing of the Reference itself. The said Exhibit W-1 is the documentary evidence in the Reference itself, which involve all the concerned workmen, including Sri Saikia, so, the effect of the said Exhibit W-1, can be legally considered, for and against, whatever it may be, in respect of all the parties to the Reference. The above findings were referred to and relied on by Mr. Majumder, for establishing that the Reference cannot be severed and as such, the dispute in respect of Sri Saikia, should be decided along with the other issues as referred for adjudication. In reply to the contrary contentions raised by Sri Biswas, the particulars of which, will be indicated hereafter. Such exceptions as taken by Mr. Majumder, I find, has lost all its force, for the subsequent stand as taken.



20. It was claimed by Mr. Majumder that the findings of the disciplinary enquiry, should not be looked into or considered or interfered with, at least in this case. He ofcourse did not contend that ordinarily there is any such absolute Bar. But, said that there may be exceptional and special or specified circumstance, when the Tribunal can take or follow such course. He ofcourse, in his usual fairness, he stated that if the Tribunal finds the delinquent to be not guilty of the charges or any one of part of them, its power under Section 11A of the said Act cannot and should not be exercised and such power should and can be exercised, if the employee concerned is found to be guilty of the charges or part or any portion of them, as framed and there are mitigating circumstances, which should be recorded, for which, the punishment as imposed, can be reduced.

21. Mr. Majumder referred to the charge sheet (Exhibit M-1), which has been produced by M.W.-1 and also referred to paragraph 19.5 and 19.6 of the Bipartite Settlement and submitted that there was no infraction of those paragraphs of the said settlement, either in issuing the charge sheet or in continuing with the proceeding and concluding the same, in the manner as it has been done. He further pointed out that while disposing of the appeal by the delinquent, the Appellate Authority, duly concurred with the findings of the Enquiry Officer, who also found some charges to have been proved. It was further pointed out by Mr. Majumdar that the fact the Enquiry Officer exonerated the delinquent of some of the charges and disposed them, would show that he had dealt with the proceedings with an open mind. It was further indicated by Mr. Majumder, on evidence produced, that on the basis of Exhibit M-31 dated April 6, 1984, it would appear from Exhibit M-32, that the delinquent was heard and on such hearing, the order in Exhibit M-33 was passed. The order of dismissal, it was indicated by Mr. Majumdar, was dated June 6, 1984 (Exhibit M-34) and therefrom, an appeal as indicated earlier, was taken by the delinquent and on August 14, 1984, by Exhibit M-36, the said appeal was disposed of.

22. Mr. Majumdar then referred to and relied on the Minutes mentioned in the Domestic Enquiry or the relevant part thereof and submitted that on the basis of those records, the charges as found against the delinquent, although not all, but at least some of them, were duly proved and established. He specifically made a reference to the Medical report, the relevant portions whereof or questions on the same would appear from page 52 of the Minutes and stated that at least, the record would establish, the complexity of the delinquent in assaulting the complainant i.e. the Agent, Sri M. C. Nath, who had to file the F.I.R., which was ofcourse and ultimately withdrawn, in the manner and circumstances as indicated earlier. A question arose, as to whether such act on the part of the Agent, Sri Nath viz. the complainant, was an act of condonation? Mr. Majumdar submitted that even if the complaint i.e. the said Sri Nath had withdrawn his report that would not have created a letter on the part and power of the said employer i.e. the said Bank, to maintain the order and discipline in Industry, as such act of assaulting or threatening an Agent, by a subordinate employee i.e. by the said Sri Saikia, was really an act of gross indiscipline and insubordination. As such, he claimed that even if the Agent concerned, had withdrawn his F.I.R., which may be considered as a condonation on his part, the said Bank was legally authorised to proceed against the delinquent Sri Saikia, for the reasons as indicated earlier.

23. Mr. Majumder submitted that even a simultaneous criminal charge against the delinquent may be continued with the Departmental Proceedings, in terms of the second schedule of the said Act. To establish such submissions, he referred to the case of *Kishewar Dubey Vs. Messrs. Bharat Cooking Coal Ltd.* and another, A.I.R. 1988 S.C. 2118. In that case, the contrary view expressed by the Patna High Court, has been reversed holding that, it is neither possible nor advisable to evolve a hard and fast straight jacket formula valid for all cases and of general application without regard to the parties or the individual situation, while answering the question, whether in the facts and circumstances of a particular case, there should or should not be such simul-

tenuity of the proceeding possible and if such proceeding would then receive judicial consideration and Court will decide, in the given circumstances of a particular case, as to whether the disciplinary proceeding should be interdicted, pending criminal trial? It has also been observed in that case that there could be no legal bar for a simultaneous proceeding to be taken against the delinquent employee against disciplinary proceeding as instituted, yet, there may be cases where it would be appropriate to defer the disciplinary proceeding, awaiting disposal of a criminal case and in the later class of cases, it would be open to the delinquent employee, to seek such an order for stay or injunction from the Court. On the basis of the above decision, Mr. Majumder submitted that there is thus no bar to continue with the Departmental Proceedings, even though the criminal proceedings as sought to be initiated, were withdrawn. He then referred to the observations in the case of *Delhi Cloth & General Mills Company Vs. Lugh Budh Singh*, A.I.R. 1972 S.C. 1031. That was a case under Section 33(1) (b) of the said Act and a point amongst others, as involved, was, if refusal to grant permission to the Management to dismiss workman on the basis of evidence recorded by the Domestic Trial, was justified and in such an application by the Management, for permission to dismiss workmen, which principles would apply? This decision, to my view, will not appropriately held good and apply, to establish Mr. Majumder's submissions, as indicated earlier. Thereafter, he referred to a decision in the case of the Management of Thaligram Tea Estate Vs. The Workmen of the said Tea Estate & Others, 1977 Lab. I.C. 1643. In that case, the dismissal of the employee concerned was directed after Domestic Enquiry and on a Reference, the question arose for consideration about the jurisdiction of the Labour Court and it has been observed that Labour Court, finding Domestic Enquiry to be fair and also in strict compliance to the principles of natural justice, has only power to see whether there was prima facie case for dismissal on the materials on record before the Domestic Enquiry and it cannot in such a case, go into the merits of the case. It was Mr. Majumder's submission, on a reference to this determination that, since the Domestic Enquiry in this case, duly satisfied the tests as indicated, so, this Court will not be entitled and authorised to go into the merits of the case and it has only the power to consider, if prima facie case has been established. Ofcourse, in his usual fairness, Mr. Majumder indicated that in case of perversity, if found, in any form, this Court will not be denuded of its power to go into the merits.

24. In the case of *State of Haryana & Anr. Vs. Ratan Singh*, A.I.R., 1977 S.C. 1512, while dealing with a proceeding arising out of a Domestic Enquiry, the Supreme Court has indicated, the extent of the applicability of the Rules of Evidence Act, while dealing with a case under Article 311 of the Constitution of India. It has been observed there that, in a Domestic Enquiry, the strict and sophisticated rules of evidence of the Evidence Act, may not apply. All materials are logically probative for a prudent mind, are permissible. There is no allergy to hearsay evidence, provided, it has reasonable nexus and credibility. The Departmental Authority and Administrative Tribunal, must be careful in evaluating such materials. It has also been observed that the sufficiency of evidence in respect of the proof of the findings by Domestic Tribunal, is beyond scrutiny. Absence of any evidence in support of a finding, is certainly available to the Court to be looked into, because it amounts to an error of law apparent on record. While on the point, further reference was made by Mr. Majumder to the case of *State of Maharashtra & Anr. Vs. Madhukar Narayan Mardica*, A.I.R. 1991 S.C. 207, where a point arose, whether interference by High Court in each proceeding, as if a Court of Appeal, was possible and it has been observed by reversing the decision of the Bombay High Court, while conceding that it has no jurisdiction to sit in appeal over the decision of a domestic trial and is not entitled to reappraise evidence, failed into an error in doing justice that under the guise of examination, the evidence to ascertain, if the delinquent was prejudiced on account of the failure of the department to provide him with the Note Books. Mr. Majumder contended that, here, no such occasion arose or will arise, if enquiry proceedings are scanned duly, as on consideration of the evidence, there will be no dearth of evidence, available.

25. Both the parties, in support of their respective submissions, referred to the evidence as recorded in the Departmental Proceedings and as such, I think some of the relevant portions of the evidence as recorded, should be reproduced. Sri Nath, the Agent, has deposed in that proceedings as M.W.-1. He has copiously mentioned and indicated the happenings of the incidents, which lead to the issue of the charge sheet, against the said Sri Saikia, in answer to question No. 2 in his examination-in-chief, by the Presenting Officer, Sri Monoj Kakati. He has also narrated the circumstances, why the Information as lodged in the P. S., was not proceeded with and withdrawn, apart from indicating in answer to question 4, that after the incident, on April 22, 1983, he had sent a Telegram to the Head Office and Regional Office, Guwahati, narrating the incident and so also a Telex message and in answer to question 5, he has also stated to have sent a report to the Head Office on April 23, 1983 and another report, a detailed one, he has said, in answer to question 6, to have been sent to the Head Office on April 27, 1983. This report was marked as Ext. 5 in that proceedings. This M.W.-1 was cross-examined by Sri Chittaranjan Banerjee, a representative on behalf of the said Sri Saikia. He has stated in answer to the question, if the employee Sri S. N. Choudhury, applied for sanction of advance, for purchasing ticket on April 20, 1983, for journey to Lala Branch on transfer that he did not. He however, sanctioned the advance against salary of Sri Choudhury and in the absence of his original application, he could not say, when such advance was sanctioned and for what purpose. He has ofcourse, in answer to another question agreed that on April 20, 1983, he went to Sri Saikia and requested him to cooperate in the matter of lease of Sri Choudhury from the concerned Branch and the consequential deployment of a cash-cum-general clerk in the General Department. In his examination-in-Chief, the witness did not mention about the abusive language used by Sri Saikia, although he mentioned them, in his report dated April 27, 1983. In answer to question No. 8, he has stated that he might have omitted to mention such fact in his examination-in-Chief and in answer to question No. 9 he has stated, not to be remembering the abusive languages used, as he was deposing after about six months.

26. It was the case of the said Union that the other employee viz Sri Joydeb Dey, who, according to the witness, was an empanelled Sub-staff in Naharkata Branch and whenever, there was vacancy in Duliajan Branch, request was made to Naharkatia Branch, to depute empanelled staff, was offered temporary appointment on the prescribed form of the Bank, to this, the answer was are emphatic no. He was shown Ext. W-1 in the proceedings, which was claimed to be a letter given to the said Sri Dey. The witness admitted the contents of the same, but said, that since the said Exhibit was not served through him, he was not in a position to explain the exact time of delivery of the same, but, he admitted to have instructed his Accountant, to release the said Sri Dey and such instruction was given on April 21, 1983 and the said Sri Dey was released on April 22, 1983 and he was further informed of the release of Sri Dey by the Accountant, but he has not verified the matter personally and he could not further enlighten about the discrepancy of the date of such release. It was his evidence that he arranged to pay Sri Dey to avoid any unhappy incident. He has further indicated that Sri Saikia, intended to discuss with him, over the matter after 2 P.M. and Sri Saikia and others including the Accountant, were actually present at the meeting, which was held as per schedule. The witness has said, when he went to the Accountant at about 2 P.M., the Accountant and others were present, but he was not aware, why they were present there. It was his further evidence that he could not mention the size of the table, where the meeting was held, but in answer to question 26, he has named the persons, who were present in the meeting and were sitting by the side of the concerned table. He has also stated that Sri Saikia threw the attendance Register on the right side of the said table, from a distance of about two feet, from where the witness was sitting and he could notice, the violent attitude of Sri Saikia, during the course of discussions. It was his further evidence that when he refused to accede to the request of Sri Saikia to make Sri Dey

present for the concerned date, Sri Saikia came towards him and caught hold of the collar of his shirt and gave severe blow on his head and before such happenings, there was a discussion to pay Sri Dey, his 21 days salary and Sri Saikia was informed that Sri Dey had already been paid. It was his further evidence that Sri Saikia, was in a violent mood and it was further and emphatically deposed by him that Sri Saikia used filthy, objectionable and unwanted languages against him, the particulars whereof have been indicated in the written statement. But, he was candid enough to say that he had no contempt against him and the suggestions that Sri Saikia did not make such remarks were said to be false.

27. The witness has further deposed that the actions and utterances of Sri Saikia were unprovoked and all on a sudden, he caught hold of his collar and gave the blow on his head. The witness has further stated that because of the blow as mentioned, his neck and nerves were affected. The blow, according to him, was given on the right side of his head and the same was inflicted on him by Sri Saikia, suddenly from his back side. In answer to question number 41 and the suggestions contained therein, the witness said that Sri Saikia came to his back side and administered the blow in the position as indicated. The witness denied the suggestions in question number 42, that he used the word "Faltu" against Sri Saikia. He also denied the suggestions in question number 43, in respect of Sri Dey. He has further stated, in answer to question number 47 that during the course of discussions, he never utilised the Accountants Telephone and he has further denied in answer to question number 49, that he ever rushed to his chamber to use his telephone, for informing the Police. But, he has stated in answer to question 50, that Sri Saikia entered his chamber and snapped the telephone connection. But, in answer to question number 51, he has ultimately said that he was not in his chamber and attempted to contact the Police from the Accountant's telephone, which again, was out of order at that time and Sri Saikia did not seize his right hand, when he was holding the Telephone. He has of course agreed that he did not see Sri Saikia snapping the telephone wire.

28. The witness has said to have filed the F.I.R. with Duliajan Police Station and at the request of Sri Umakanta Phukan, he amicably settled the matter and got Sri Saikia released from Police custody. The settlement was stated to have been signed by both the parties. He has stated that the terms of the said settlement were that, there will be no dispute between him and Sri Saikia in future. But, he stated that he apprehended mischief to be caused by Sri Saikia, as on way back from the Police Station, Sri Saikia threatened him with dire consequences viz. he will kill him. His further evidence was that nothing happened on April 22, 1983. But, on the next day, one Mr. P. C. Rajkhowa asked him not to go out of the Bank compound and on that night, at about 9.15 P.M., a plain clothed Policeman came and asked him to contact the Officer-in-Charge of the Police Station and on contacting the said Officer, he told him that his reporting the matter of the Bank Authorities, was not wise, as the same may cause something to Sri Saikia. But, he agreed that nothing happened to him and his family, till his departure from Duliajan. In answer to question number 65, the witness has said that the working of Sri Saikia at the Branch was satisfactory, but his conduct was not so. In answer to question number 67, the specific answer of the witness was that, Sri Saikia was indulging in misconduct in the past also, but, he had no documentary proof of that. This was of course his answer to question number 68. It was also his evidence that on April 22, 1983, he did not allow Sri Joydeb Dey to work. He has further deposed to have asked for option transfer to Bongaigaon Branch of the said Bank.

29. Sri Shyamalendu Das, an Officer of the Duliajan Branch deposed as M.W. 1 in the enquiry on April 22, 1983, he was officiating as the Accountant of the concerned Branch. The evidence of this witness substantially agreed with the statement of Sri M. C. Nath (M.W. 1), in respect of the facts and happenings in the case of Sri Joydeb Dey, the Sub-staff. He has stated that on April 21, 1983, Sri Dey was informed by him, as all the staff were present, his services on April 22, 1983, would not be required and he was asked to conduct the Branch Manager. Thereafter, Sri Dey did not come to him. But, at about 10.15 A.M. he found Sri Dey, carrying one



Token Register and at that, he contacted the Branch Manager, to find out, if Sri Dey was working under his orders. He has also deposed that on checking, he found that Sri Dey had signed the Attendance Register and on being asked, the Branch Manager enquired of Sri Dey and he did not reply. At that point of time, Sri Saikia and at the discussions which were held and more particularly at the time of discussions in respect of the payment to Sri Dey enquired, why Sri Dey was not allowed to join on April 22, 1983 and he produced an Attendance Register and asked, why the attendance of Sri Dey was scored through and he demanded, that he should be allowed to work on that date. It has been stated that in the course of discussions, Sri Saikia was proceeding towards Sri Nath and ultimately, caught hold of Sri Nath's collar and at that, Sri Kalyan Kumar Chakraborty, who was sitting by the right side of Sri Nath, asked him as to what he was upto? By that time, Sri Saikia gave a blow to Sri Nath and then, all present, separated them and attempts were made to pacify them and then, Sri Nath attempted to ring up the Police over the phone, which was 5 to 6 feet away, from where he was sitting. He was of course requested not to do that and thereafter, the persons present, were informed that Sri Saikia had torn the telephone wire. Afterwards, Sri Nath left and after sometime, Police came at about 3.15 P.M. and enquired about Sri Saikia, as they will require him at the Police Station, after the Bank hours.

30. It was the evidence of this witness that on April 27, 1983, Sri P. K. Roy, Regional Manager, Dibrugarh, visited the Branch and asked him to submit his statement regarding the happenings on April 22, 1983, which he did (Ext. M-6). It was his further evidence that the Acting Agent, asked him to release Sri Dey, which he did at about 5 P.M. on April 21, 1983 and informed Sri Dey that his services will not be required on the next day, and really, on April 22, 1983, he passed the release order and as Sri Dey could not be found out, the order was kept in the Despatch Department. It was his further evidence that perhaps on May 5, 1983, Sri Dey came to the Branch and then he handed over the order to him. He has further stated that the attendance register is maintained by the Accountant. The witness has also stated, in answer to question 8, that the Accountant's chair, which at the relevant time was vacant, was between the Telephone and the place, where Sri Nath was sitting. It was his further evidence that before they could intervene, Sri Saikia gave the blow to Sri Nath. He has further stated that even when Sri Dey was present at the Branch on 2.30 P.M., the concerned order could not be served on him, as the members of the said Union told that the order should be served after the dispute was sought to be settled.

31. Sri Kalyan Kumar Chakraborty has deposed as M.W. 3 in the proceedings on April 22, 1983. He was the Relieving Officer of the concerned Branch. He was present in the meeting in question on April 22, 1983, being asked by Sri Nath and was sitting by his side. He has testified about the holding of the collar of Sri Nath by Sri Saikia and he attempted to interfere, but, before he and others present, could do anything, Sri Saikia gave a blow to Sri Nath. He has also stated about a hot discussion between Sri Nath and Sri Saikia over the issue of Sri Joydeb Dey. He has of course said about the appearance of Sri Nath and his way and the manner in which, he talked with Sri Saikia, who according to him, was calm and cool, was rough and rude. But, he has said that all of a sudden, Sri Saikia caught hold of the collar of Sri Nath and watching this, he tried to release Sri Nath and in the meantime, others rushed and got them separated. It was also his specific evidence that Sri Saikia administered a blow to Sri Nath on his right ear before anything could further be done, and such happenings took place within a very short time. After this, Sri Nath tried to contact the Police and this witness has stated that he and one Sri Shyam Sunder Das, tried to prevent him from calling the Police. He has stated that on being asked by P. C. Roy, Regional Manager, Dibrugarh, who came to enquire, he gave a statement, marked Ext. M-7 in that proceedings. In cross-examination, the witness has said that at the time of discussions at 2 P.M. on April 22, 1983, Sri Nath and Sri Saikia were sitting opposite to each other and probably, at a distance of 4-1/2 feet and before reaching Sri Nath, for and in the manner as indicated earlier, he had to pass three persons and he had to use some force, for releasing the hand of Sri Saikia. It was his evidence that Sri Nath did not threaten Sri Saikia being handed over to the Police or he could hear Sri Nath calling Sri Saikia as "Faltu".

It was also his evidence that Sri Nath was speaking in a loud tone and on hearing such and tough tone, Sri Saikia, perhaps got excited. He has stated to have accompanied Sri Nath along with others to the Police Station and on way back, he did not hear Sri Saikia, threatening Sri Nath with dire consequence. It was also his evidence that during his tenure of one year and 9 months, he never saw Sri Saikia misbehaving.

32. M.W. 4 in the preceding was Sri Loknath Das, a Sub-staff of the concerned Branch and a member of U.B.I.E.U. His evidence was that at the time of discussions over the matter, Sri Saikia got excited and caught hold of Sri Nath by his collar on April 22, 1983 and previous to that, there were exchange of some hot words between the two. He has stated that Sri Saikia was holding the front portion of the shirt of Sri Nath. He has not of course seen Sri Saikia hitting Sri Nath. He has also spoken of separating the two. He has also given a statement, Ext. M-8 in the proceeding to Sri P. K. Roy, whose particulars, have been given earlier. He has specifically stated in Cross-examination, he could hear the arguments over the attendance of Sri Dey, between Sri Nath and Sri Saikia. He has stated that Sri Nath used the word "Faltu" and at that, Sri Saikia got enraged.

33. Sri Saikia was examined as WW-1 in the enquiry proceedings. He was employed in the said Bank since August 16, 1976 and belonged to U.B.I.E.U. Further, he was holding the post of Secretary of the said Union of the Bank Unit Committee, Duliajan. He has stated that Sri Nath's attitude was hostile towards him and on one occasion, when he wanted to discuss with Sri Nath, on a matter relating to Sri S. N. Choudhury on April 18, 1983, Sri Nath did not express his willingness to discuss and settle the matter. It was his observation that such refusal to discuss, Sri Nath defied his position as Secretary of the Union of the Branch as mentioned earlier. He has further stated that on another occasion, Sri Nath refused to discuss with him, in respect of payment of 16 days salary to the said Sri Dey, whose particulars are mentioned earlier. He has further stated that Sri Nath, directly informed him in the matter and that, he will do whatever he wants to do. It was the evidence of Sri Saikia that on April 21, 1983, he had no discussions with Sri Nath. He has further stated that the above mentioned Sri Choudhury applied to Sri Nath, for sanction of advance on account of his transfer to Lala Branch and it was his specific evidence that on April 22, 1983, at about 11 A.M., the said Sri Nath shouted at the top of his voice and was reprimanding the employee concerned and he also ordered him to go out of the office, on the threat of putting him into Police custody. At that, Sri Dey asked for Sri Saikia's intervention and on that, he approached Sri Nath and asked him to allow Sri Dey to work for the day, as he had already signed the Attendance Register. Sri Saikia stated that in harsh words, Sri Nath told him that he has asked Sri Dey, not to join the office, yet, it is difficult to understand, how he has signed the register. It was his evidence that about 2.30 P.M., he went to the Chamber of Sri Nath, who directed him to go to the Accountant's table, for holding further talks. In that meeting, Sri Saikia has said to have raised the issue in respect of Sri Dey and asked Sri Nath, to allow him to work for reasons as aforesaid and also, as Sri Dey was not duly served with a release order on April 21, 1983. He has further stated that the insistence by him, was on account of the fact that Sri Dey had already signed the register and was working from the very beginning and he has also stated, to this, Sri Nath became very angry and stated that he was all in all in the Branch and was also competent enough to decide, whom to allow work or not. Sri Saikia has stated that he requested the said Sri Nath, to make the payment to Sri Dey as mentioned above, to which, Sri Nath told him that Sri Dey has already been paid. It was also his further allegation that Sri Nath called him a "Faltu", to which he objected, as the said word carries a meaning, which is not very respectable. He has stated that at this stage, Sri Nath was infuriated and threatened that he would also hand over Sri Saikia to Police and then, he went to ring up the Police from the Accountant's table, which was also obstructed by Sri Saikia and at that time, Sri Nath caught hold of his collar and he also reciprocated in the same way. He has also stated that the members present, rushed and separated them and thereafter, Sri Nath rushed to his Chamber, which was of course obstructed by Sri Saikia and there was a scuffle. He was not certain, as to whether Sri Saikia was hit by the telephone at that time. He has further stated, Sri Nath went out and at about 3.30 P.M., Police came and ordered him to

go to the Police Station. He has stated that after finishing his work, he went to the Police station at about 5 P.M. and round about 8 P.M., the said Sri Nath accompanied by other staff members, came to the Police station, where an amicable settlement, as indicated earlier, was arrived at and after that, he along with other members returned to the staff mess. He was not sure as to what happened to the connecting wire of the telephone, during the scuffle as mentioned earlier and he did not find any injury on the body of Sri Nath, on April, 22, 1983.

34. Sri Saikia has stated that Sri Nath agreed to talk to him, because a special initiative was taken by Sri Shamakundu Das, Acting Accountant. He has further stated, in the morning, when the attention of said Sri Das was drawn, regarding the issue as involved, he said that I must have the matter settled mutually with Sri Nath after office hours and he acted accordingly. It was his further evidence that since 1982, he was the Secretary of the concerned Unit of the said Union and he knew Sri Nath for about 3 years. It was further stated by him that Sri Nath agreed to hold discussions with him on the point at issue, since the same was a problem to him and he himself had committed some irregularities. He has further stated that Sri Nath, on April 22, 1983, had made the payment to the aforementioned Sri Dey, towards salary for 21 days, relating to February 1983 of his own and not under any duress. He has further stated that Joydeb Dey was an empanelled sub-staff of Naharkatia Branch but was working in the concerned Duliajan Branch, on temporary basis and all the staff of that Branch, were present on April 22, 1983. He has stated that the action of Sri Nath would have been justified, if he had served Sri Dey, the order of release on the previous day and according to him, Sri Dey was not instructed by him to sign the register on April 22, 1983. He has further stated that Sri P. K. Roy, Regional Manager, Dibrugarh came on April 27, 1983 and he had agreed with the contents of his report, Exhibit M-3 in the proceeding. He has further stated that Sri Dey reported to duty and signed the attendance register, before Sri Nath gave him any instruction and this fact came to his knowledge, at the time of discussions in the meeting and he could not find any reason, as to why, thereafter, Sri Dey should approach Sri Nath. He has further stated that Sri Dey was never instructed by him to sign the attendance register and he was not aware of the fact, if Sri Nath had refused to give 21 days salary to Sri Dey on April 21, 1983. But, he had apprised him of the matter, as, on a previous occasion, Sri Nath had rejected the bill prepared by the Accountant, but this time, he has paid the same. It was his further evidence that Sri Nath used the word 'Faltu' not only to him, but also to Sri Dey on April 22, 1983 and he, all throughout kept himself calm and quiet and did not hit the said Sri Nath. He has repeated that from inside his chamber, Sri Nath tried to contact the Police Station, over the phone, to which he obstructed, but he has not cut off the telephone of Sri Nath's chamber. He has further denied that while coming back from the Police Station, he threatened Sri Nath, as claimed.

35. WW-2 in the proceeding was Umakanta Fukun, who belonged to the same Union and was the Joint Secretary of the Duliajan District Coordination Committee of U.B.I.E.U. and one of the members of the Central Executive Committee of the Union. He has stated that he went to Duliajan at about 6.30 P.M. on April 4, 1983 and Sri S. N. Choudhury of that Branch, informed him that an incident has happened between Sri Saikia and Sri Nath and on that, he along with 3 members of the Union and 2 members of the Officers Union, went to the Duliajan Branch and thereafter, to the house of the said Sri Nath, where they had discussions for about an hour, over the issue and during such discussions, they said that if there was any dispute, the same should be settled and such dispute should not be referred to Police. He has further stated that he requested Sri Nath, to compromise the matter, to which Sri Nath agreed. It was his evidence that then, Sri Nath and some others from Duliajan Branch, went to the Police station and found Sri Saikia there. It was his further evidence that he told Sri Saikia also that the matter should be compromised, to which Sri Nath agreed. His evidence was that Sri Saikia also agreed to his proposal and then, he had a discussion with Sri Nath and thereafter, the settlement was arrived at. He has deposed that the condition of Sri Nath was all right and he asked him about the incident and on such, Sri Nath narrated the story or the

happenings. This will appear in answer to question No. 9 to the witness. In answer to Question No. 13, the witness has said that Sri Saikia did not come with him, though he stated that Sri Saikia was with them.

36. On the basis of the evidence, some particulars whereof have been indicated above, Mr. Mazumder claimed and contended that firstly, there was no dearth of any reasonable opportunities, given to the said Sri Saikia, secondly, he represented, at the enquiry, he was duly represented by his representative and thirdly, he had all and every opportunities to tender his available evidence and so also, to cross-examine the officials produced by or on behalf of the said Bank. He further claimed that the report of the Enquiry Officer Ext. M-2, do also depict the above fact and on the basis of the said report, the findings as arrived at viz. holding Sri Saikia guilty of the charges, if not all, but at least in respect of his conduct, which was detrimental to official discipline, was proved and in fact, findings as arrived at, were really, on the basis of available evidence, which again according to Mr. Mazumder, also proved the fact of assault. He further claimed, there was also no perversity in the findings and as such, this Tribunal will not be justified to make any interference with such findings. Mr. Mazumder, of course in his usual fairness, stated that if the Tribunal finds the said Sri Saikia guilty of the charges, then again, under Section 11A of the said Act, it can interfere with the quantum of punishment or decide and direct a lesser punishment thereon, as should be imposed. In any event, he submitted that the Enquiry Officer has made his determinations with open mind and when such misconduct, as in this case, has been found to have been proved and established, the Tribunal should not, ordinarily, interfere with such findings, more particularly when, the charges were grave. It was submitted by him also that the findings as arrived at, on the basis of evidence, was not disproportionate and as such, on the basis of the determination in the case of *Naktala Iron Works Vs. The State of W.B. and Ors.*, 1978 Lab. I.C. 899, which lays down and indicates the necessary tests to the effect that Tribunal should not make any interference unless of course, it comes to the conclusion that there was no justification for the punishment or it is so shockingly disproportionate, as would betray malice on the part of the employer or in other words, one is to see, if imposition of a particular punishment is a colourable act on the part of the employer or not. The true test therefore, is to see whether a reasonable employer could have imposed such a punishment and without that the Tribunal would have no power to interfere. Mr. Mazumder indicated that in this case, there was or has been no mitigating circumstances, for which the findings as made, can or should be interfered with or required to be reconsidered. To establish the above submissions, Mr. Mazumder also referred to the case of the *Management of Munghyr Factory of I.T.C. Ltd. etc. Vs. The Presiding Officer, Labour Court, Patna and Ors.*, 1978 Lab. I.C. 1256, where it has been pointed out that compensation in lieu of reinstatement can be awarded and Mr. Mazumder submitted that this is a fit case for exercising such power and jurisdiction, as in the facts of this case, the said Sri Saikia, should not at all be reinstated, if not for any other reasons, but at least for maintaining office discipline and decorum.

37. While on the power of the Tribunal under Section 11A of the said Act, Mr. Mazumder, firstly referred to the case of *Workmen of Bharat Fritz Warner (P) Ltd. Vs. Bharat Fritz Warner (P) Ltd. and Anr.*, A.I.R. 1990 S.C. 1054. In that case, it has been observed amongst others that misconduct involving act of threatening of highest executive with dire consequences, wrongful confinement notice, would be considered as subversive of Discipline and in such case, the Supreme Court has observed, reinstatement is not warranted. Mr. Mazumder claimed, on the basis of evidence as recorded, that there was no doubt that Sri Nath was one of the top Executives of the said Bank of Duliajan Branch and the act or action taken against him, would certainly bring the case within the purview and mischief of the above Supreme Court decision and as such also, reinstatement of Sri Saikia would not be possible and should not be allowed. While on the point, further reference was made by him to the case of *Post Graduate Institute of Medical Education and Research, Chandigarh Vs. Labour Court, Chandigarh and Anr.* 1990 (1) Lab I.C. 70, which according to him has also established that in the facts of the present case, no interference is possible or should be made.

38. Mr. Biswas, appearing on behalf of said Sri Saikia pointed that if there was at all any assault on Sri Nath and while on the point, he indicated, on a reference to the cases, as would be dealt with hereinafter that this Tribunal has got the necessary power to enter into and look to the facts of the present case, for the purpose of satisfying its conscience, if there was really any assault committed on Mr. Nath or proved in the facts of the present case. He firstly, referred to the case of Rajendra Kumar Kindra Vs. Delhi Administration etc. and others, A.I.R. 1984 S.C. 1984. In that case, the employee concerned was dismissed for misconduct on the basis of findings to that effect, in the domestic enquiry. It has been observed, if such findings are based on no evidence, they can be rejected as perverse. In that case, it has been indicated by the Supreme Court that it is well settled that while the findings of misconduct are based on no evidence and the conclusion is one, to which no reasonable man would depend, Arbitrator appointed under Section 10A of the said Act or the Supreme Court in Appeal under Article 136, can, reject such findings as perverse and such holdings that the findings are perverse, does not constitute reappraisal of evidence, though the Court would have been perfectly justified in the exercise of powers conferred by Section 11A, to do so. It has further been observed that it is equally well settled that where a quasijudicial Tribunal or Arbitrator records findings, based on no legal evidence and the findings are either ipse-dixit or based on conjectures and surmises, the enquiry, suffers from the additional infirmity of non-application of mind and stands vitiated. The Industrial Tribunal or the Arbitrator or a quasijudicial authority, can reject, not only such findings, but also the conclusions based on no legal evidence or if it is merely based on surmises and conjectures, unrelated to the evidence, on the ground that they disclose total non-application of mind. It has also been observed in that case that where the order of dismissal is sought to be sustained on a finding in a domestic enquiry, to be shown perverse and the enquiry is vitiated, on such suffering from the non-application of mind, the only course open to the Court, is to set it aside and consequently, relief of reinstatement must be granted, where there was nothing against granting the same. Secondly, Mr. Biswas referred to the decision in the case of workmen or Messrs. Firestone Tyre and Rubber Co. of India (P) Ltd. Vs. The Management and Ors., A.I.R. 1973 S.C. 1227, which has indicated that Section 11A of the said Act, is prospective in its operation. That is, it applies to disputes referred for adjudication after the date of its coming into force, which was on December 15, 1971. That determination has further indicated that even, where the dismissal of a workman by an employer on the ground of misconduct, is preceded by a proper and valid domestic enquiry, Section 11A, now empowers the Labour Court or the Tribunal, to reappraise the evidence and examine the correctness of the findings thereafter. Section 11A further empowers it to interfere with punishment and after the same. This determination has further pointed out that the mere fact that no enquiry or a defective enquiry has been held by the employer, does not by itself render the dismissal of workman illegal. The right of the employer to adduce evidence, justifying his action for the first time in such a case, is not taken away by the proviso to Section 11A which uses the expression "in any proceeding under Section". On the basis of the above decision, Mr. Biswas wanted to supplement his submissions that this Tribunal has got the right, jurisdiction and authority to reappraise the evidence and on such reappraisal, according to him, the Tribunal should return a verdict that the guilt of the employee concerned was not duly, properly and actually established. It was also indicated by Mr. Biswas that even if the probabilities are accepted, there will be no doubt or dispute that the findings as arrived at in the domestic enquiry, were perverse and full of contradictions.

39. On the question of appreciation of evidence and consideration of circumstantial evidence and the powers of the Court, reference was made by Mr. Biswas to the case of Hunmant Govin Nargundkar and Anr. Vs. State of Madhya Pradesh, A.I.R. 1952 S.C. 343, where it has been observed in dealing with circumstantial evidence, rules specifically applicable to such evidence, must be borne in mind. In such a case, there is always the danger that conjecture or suspicion may take place of legal proof. In case where the evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn, should in the first instance, be fully established and all the facts

so established, should be consistent only with the hypothesis of the guilt of the accused. Again, the circumstances should be of a conclusive nature and tendency and they should be such as to exclude every hypothesis, from the one proposed to be proved. In other words, there must be a chain of evidence, so far complete as not to legally reasonable ground for a conclusion consistent with innocence of the accused and it must be, such as to show that within all human probability, the act must have been done by the accused. Mr. Biswas then made a still further reference to the case of State of Rajasthan Vs. Sm. Kalni and Anr., A.I.R. 1991 S.C. 1390, where on the question of discrepancies in evidence, it has been observed, in the deposition of witness there are always normal discrepancies however honest, concocted and truthful they may be. These discrepancies are due to normal error of observations, normal errors of memory due to lapse of time, due to mental disposition, such as shock and horror at the time of occurrence and the like. It has been indicated, main discrepancies are those which are not normal and not expected of normal person. In that case, it has been pointed out, there were no "main discrepancies" in the evidence of the widow of the deceased and the discrepancies as referred by the High Court are minor, insignificant, natural and not material. Mr. Biswas pointed out that the medical papers in this case, were not duly produced in the enquiry and as such and because of such non-submission, any findings arrived at, on the question of assault to Sri Nath, cannot be accepted or relied upon or considered. In such circumstances, it was claimed that the charges as contained in Charge Sheet M-1, could not be held to have been proved.

40. As indicated earlier Sri Nath filed an information to the concerned police station and thereafter, the same was compromised and the effect of such compromise, according to Mr. Biswas, condonation of the acts, as alleged to have been committed by Sri Saikia, before the filing of the said information. Mr. Biswas indicated that the question of threatening Sri Nath by Sri Saikia, thus, could not be a case for consideration in the report, as, such threatening, occurred after the compromise was effected and while Sri Nath was returning home, from the police station. In that view of the matter, Mr. Biswas submitted that thus, this Tribunal is required to consider the fate or otherwise of the charges only, as alleged to have levelled, before the filing of the information and if at all, allegations subsequent to the withdrawal of the information, can not and are not required to be considered. According to him, such subsequent allegations have not been duly proved, and if at all, only the charge of assault prior to the information, was proved and nothing else. On the basis of the above submissions, Mr. Biswas further claimed, that really the charge of threatening, as said to have been levelled against Sri Nath by Sri Saikia, was not at all brought home and thus, the sum total or effect of the charge sheet, would be nothing but honest.

41. It was submitted by Mr. Biswas, on a reference to the report as made and on the basis whereof, the Charge Sheet was issued, was really and in fact, contrary to the offences as said to have been committed by Sri Saikia. It was his specific submission that on a consideration of evidence as indicated earlier, it would appear that there was really no basis of the charge sheet in respect of assault and on consideration of facts, there is no other way out, but to hold and that too, on the basis of the definition of "assault", that there was really no cause for or any case of assault. On a reference to the evidence as indicated earlier, he also submitted that from the distance, when Mr. Saikia was sitting in one side of the table and Sri Nath sitting on the other side and many persons intervened in the meantime, it was not possible physically or otherwise, to give a blow to Sri Nath or to catch hold of his collar as alleged and there was in fact, no positive evidence showing that Sri Saikia had inflicted such blow, by which injuries on Sri Nath, were inflicted and further, he wanted to supplement his above submissions by saying that the medical evidence on this point, was not only insufficient, but in fact, such evidence was not duly produced or appropriately proved and that would be enough to hold that the said story was fabricated, for the purpose of finding Sri Saikia guilty of such charges. He further made a reference to the findings in Exhibit M-2 at the enquiry, and stated that these findings were deliberately made,

with the intention and object as aforesaid, by discarding the evidence of Shri Saikia and not considering such evidence duly, since no medical evidence was produced, Mr. Biswas contended that appropriate presumptions under Section 114G of the Evidence Act, should be drawn and the findings of the Enquiry Officer, if not for that reason, but for other reasons, should also be held and considered to be perverse.

42. Shri Biswas, in his usual fairness stated that for the above purpose, reappraisal of the evidence and the report made on that basis, can and should be made and that too, for the purpose of finding out, the material discrepancies, which according to him, were in abundance. In this case, to establish the power of the Tribunal in such respect, reference was made by Mr. Biswas to the case of Smt. Nirmala Chakraborty Vs. Commissioner for Port of Calcutta, 1968 Lab I.C. 584, a case, where a Departmental enquiry was initiated against the servant for misconduct on the charge that he gave threat of assault to an Officer. It has of course been held on facts of that case, mere obstruction may not amount to threat or assault. It has also been observed that on notice to show cause against the proposed punishment, the delinquent had right to challenge, not only the question of punishment, but also the findings of guilt and to show, that the evidence would show that even on the findings flowing from them, he has a right of access to the evidence, if the same has not as yet been served on him. This case of course, in my view and as submitted by Shri Biswas, will be applicable for establishing that mere obstruction does not always amount to assault.

43. Shri Biswas then referred to and relied on section 11A of the said Act and for the powers of the Tribunal under that section. He, firstly made a reference to the case of Scooter India Limited, Lucknow, Vs. Labour Court, Lucknow and Ors., AIR 1989 SC 149, a case under Section 6(2)A of the U.P. Industrial Dispute Act, 1947 and one, on termination of services. In that case, disciplinary enquiry was found to be fair and lawful and also that the findings were not vitiated in any manner. It has been observed, that by itself, should not be ground for non interference with the order of termination of service by the Labour Court. In the facts of that case, the Labour Court gave directions requiring re-instatement of the employee, with 75% back wages, on the ground that the workman concerned, should be given opportunity to reform himself and prove to be a loyal and disciplined employee of the Company and such directions have not been found to be illegal and arbitrary. On the basis of the case, Shri Biswas wanted to submit that even if the disciplinary enquiry in this case, was found to be fair and lawful and if findings are not vitiated, interference and reinstatement by this Tribunal, is possible. Then, reference was made to the case of Jitendra Singh Rathor Vs Baidyanath Ayurved Bhawan Ltd. and Anr. AIR 1948 S.C. 976, again a case under Section 11A of the said Act. In that case, it has been observed that where the Tribunal, while directing re-instatement, withheld payment of the back wages, keeping in view, the proved misconduct, such withholding was in the nature of penalty and it could not be said that the relief of reinstatement was being granted in terms of withholding of the back wages and, therefore, did not constitute penalty.

44. As indicated earlier, a point arose in this case, on the submissions of the parties, if a general Reference of the nature, as in this case, consisting of several different issues, can be severed and if the Tribunal is authorised to make separate Awards, in terms of the different disputes as referred. To establish that such power is with the Tribunal, reference was made by Sri Biswas to the case of Rajasthan State Road Transport Corporation, Jaipur, Vs. The Judge, Industrial Tribunal, Rajasthan, Jaipur and 9 others, 1974 (II) L.J.J. 328. The subject matter in the Reference was seven disputes connected with seven separate questions and question 3 related to the validity of dismissal of 6 employees of the Central Workshop of the Appellant. The Tribunal made an Award in relation to question 3, holding the dismissal, to be invalid and ordering reinstatement, leaving other questions to be decided at a later stage. On being challenged, regarding the power of the Tribunal to make such Award, the Award was upheld by the High Court. It was contended that since the disputes were not interconnected, so, such Award as made, was within the jurisdiction and competence of the Tribunal. The exact terms of the

Reference in that case, is not available from the judgement and that fact was also pointed out by Mr. Majumdar. To further establish his submissions on the point, Sri Biswas referred to Section 2(b) of the said Act, which defines 'Award' meaning, an interim or a final determination of any Industrial Dispute or on any question relating thereto by Labour Court, Industrial Tribunal or National Tribunal and includes, an Arbitration Award, made under Section 10A. He, then referred to section 2(k) of the said Act, which defines "Industrial Dispute", as any dispute of difference between Employer and Employer, or between Employer or Workmen or between Workmen and Workmen, which is connected with the employment or non employment or the term of employment or with conditions of the Labour of any person. He further made a reference to section 15 of the said Act, which indicates the duty of Labour Court, Tribunal and National Tribunal. A further reference was made by him to section 18(3) of the said Act, which prescribes the authority of a settlement arrived at in the course of conciliation proceedings. In the said Act or an Arbitration Award, in a case, where a notification has been issued under Sub-section 3A or of section 10A or an Award of a Labour Court, Tribunal or National Tribunal which has become enforceable and has further indicated, on whom such proceedings will be binding. Sri Biswas, then and while on this point, also made a specific reference to the case of Rajasthan State Road Transport Corporation Vs. Judge, Industrial Tribunal, Rajasthan, Jaipur & Ors (Supra), which as indicated, was a case of composite Reference on several disputed questions and it has been observed, final determination of one question by the Tribunal, cannot be said to be interlocutory in nature or in the nature of interim relief. Such determination as mentioned, was made, while dealing with a question under section 2(b) of the said Act. Sri Majumdar, as mentioned, has pointed out that this decision as cited, cannot be held good or applied in this case, since, it would not appear, if the Reference in that case, was made issue-wise or in isolation, as it would appear that the Tribunal, in that case, decided the issues, by numbers, which is not a case here. Sri Biswas of course submitted, since in this case, the issues on termination, were unconnected so this Tribunal will have power to sever the Reference and make Award/Order issue-wise and peace meal.

45. It was Sri Majumdar's submissions that earlier, my predecessor-in-office, was in fact approached, for making separate Awards, but on a reference to paragraphs 18 and 22 of his order, it would appear that such prayer was not in fact and virtually accepted to, so, no peace-meal Award should or can be made now. It was his further submission that his clients have, in the written statement, filed in the case of the said Samity, have specifically taken the above point and he conceded that unless parties agree, such several Awards, on the basis of issues, cannot be made.

46. Sri Majumdar could not dispute that the F.I.R. lodged by Sri Nath was ultimately withdrawn, but he claimed that such withdrawal of F.I.R. by Sri Nath, will be no bar to initiate proceedings by the said Bank, as they will have to look not only to the interests, reputation and goodwill of the said Bank, but will also have to see that office discipline is maintained and protected. It was his submission that the act or action of Sri Saikia was violently against maintenance of such official discipline. It was submitted by him that when assault in this case has been proved, so, this Tribunal will have no other authority and alternative, except to hold and found, Sri Saikia, guilty, at least of that charge, if not for others, and after such finding is arrived at, it can certainly exercise its power under Section 11A of the said Act, if necessary. To establish that, he referred to the case reported in AIR, 1991 S.C. W. 879. But in spite of his promise on my request, he has not supplied that Report. The said Report is not available here in this Tribunal. He of course agreed that in appropriate cases, the Tribunal can go into the question of reappraising evidence, but submitted, that such power, should be sparingly used and this is not a case, where the said power can or should be used, as according to him, there is no perversity in the findings.

47. Before taking up the matter for fresh decision/determination, some more facts, which will have relevant bearing, should be stated. From a reference to the facts, there will be no doubt that the cause as raised by the said Union and the said Samity have been clubbed together in one order of Reference. In the case of Sri Saikia, only the said Union,

was interested and not the said Samity. They were of course interested in the cases or the termination of the other employees and the other disputes, as referred for adjudication and the above facts will also appear from their respective written statements. It will also appear from the pleadings that the cases of termination as represented by the two unions in respect of their respective members, had no nexus or connection with each other and the cause of actions in respect of Sri Saikia and the other dismissed/terminated employees, were absolutely different and as stated, not connected with each other. The preliminary points as taken and raised by Mr. Majumder, on the question of legality, validity and propriety of the Order of Reference as referred to and indicated in paragraphs, 18 and 36 hereinbefore, have really lost their efficacy, quality and character, in view of the subsequent joint application filed by the said Bank and the said Union, on January 12, 1993 and whereby, they have asked for and agreed to have a separate Award in the case of Sri Saikia. They have, in fact, indicated in paragraph 2 of that application that the dates of incidents and the places of occurrences disputes and are different. Such special character of the disputes have also been indicated by the said Bank in their application as indicated earlier and against the statement of the said Samity. It has been indicated in the application, about the happenings and directions passed after the closing of hearing of Sri Saikia's case on merits and although the said Bank took the plea that in the facts of the case, no separate Award could be made, but ultimately, the said Bank, at the high level discussions with the said Union, agreed for the passing of the separate Award, as indicated earlier. Mr. S. K. Baid, appearing for the said Samity of course could not agree to the above proposal, but contended that this Tribunal, if so desires, can pass separate Awards, in respect of all the cases of dismissals/terminations. Thus, they have not, in fact or in effect, denied the power of the Tribunal to make separate Awards in appropriate cases and submitted that if the cause of actions are different, which are the fact in this case, such separate Award, can be passed, under specific circumstances, but such power should be exercised sparingly and not always and in all cases.

48. It should be noted that by Order dated August 27, 1990, my predecessor-in-office, decided the preliminary point on the validity of the Domestic Enquiry in the manner as indicated in paragraph 5 of the above mentioned application and thereafter, on January 16, 1992, the said Bank examined MW-8 and indicated that there was no other evidence to be lead and the learned Advocate for the said Samity indicated that he will not lead any evidence and after hearing the parties, on March 5, 1992, it was ordered that the parties are to argue, both on the preliminary point and the merits in respect of Sri Ashoke Kumar Goel's case and also on merits in respect of the other employees, on March 30, 1992 and in terms of the order dated March 5, 1992, on March 30, 1992, the said Bank tendered evidence through MW-9, on merits of the case and then, on May 13, 1992, Mr. Biswas, appearing for the said Union, stated that he will not lead any oral evidence and on that date, Mr. Majumder, with the leave of the Tribunal produced Exhibits M-41 to M-45 and those documents were marked on consent. On completion of the submissions, on November 30, 1992, Mr. Biswas appearing for the said Union, prayed for a separate Award in the case of the said Sri Saikia. Mr. Majumder was heard on the point and on December 16, 1992, the parties submitted that the views of the said Bank on the point, was not obtained and the learned Representative of the said Samity submitted that the cases of the remaining workers may be taken up for hearing, without any further delay. The representatives of the said Union informed that they will indicate the outcome of the matter on the next date, which was fixed on December 28, 1992. But, on that date, they again took time and finally on January 12, 1993, the application as indicated above, was filed. The views of the said Samity, over the issue, have been indicated earlier and as it will appear, they have also agreed to have such separate Award in respect of the disputes under Reference and contended that Award in respect of all the disputes relating to dismissals/terminations, be made together.

49. As indicated earlier, for the stand as taken by the said Bank, their preliminary point has lost all its weight and effect and as such, I feel and that too, in view of the stand as taken by the said Samity, there will be no difficulty in

having the Reference severed and to make a separate Award in the case of Sri Saikia and that too, when the parties have agreed that the cause of actions in the cases of the dismissals/terminations of the employees were not one and the cause of actions were not also interlinked or interrelated. In other words, it was indicated that the Award, if made in the case of Sri Saikia or the reasons for the same, will not have any effect or interfere with the cases of other employees. I, ofcourse agree with the submissions that such power of making a separate Award, as in this case, should be used very sparingly and not in all cases or always. I thus propose to make the Award in the cases of Sri Saikia, without creating any precedence.

50. The charges on four counts against Sri Saikia and the basis thereof, have been indicated in paragraph 4, 5 above and they were claimed by him, to be motivated and not bonafide. In my view, here is a case, where both the parties viz. Sri Nath and Sri Saikia, were out to show their power, authority and strength. Sri Saikia's dealings towards his superior, even though, he was an office bearer of the unit of the said Union there and was expected to look to the interest of the members, was not only harsh, but they were neither discent nor expected. On evidence, apart from the above, it appeared that his tone and behaviour was offensive and that according to me, constituted disorderly, indelcent and unauthorised acts or actions, which again, have been duly found and such acts or actions, should be strongly deprecated, if not for any other reason, but at least for maintaining office discipline and decorum. On consideration of the evidence, I also agree with such findings. Holding a superior by the collar in the Bank premises and in the presence of others, including subordinates, was certainly against office discipline, all norms and culture, whoever he is, even if he is an office bearer of the Union or any staff or officer. The fact that Sri Saikia's behaviour, however agitated, was not proper and such fact of holding Sri Nath by the collar by him, has been proved and established through the evidence of MWs. 2, 3 and 4 and such conduct on his part, would certainly come within the perview of assault. The use of abusive language by Saikia, has not of course been duly proved and although MWs 2 and 3 have spoken about inflicting blow by Sri Saikia, which hit him on the right side of the head, was very difficult to be believed or accepted. It appeared from the evidence that Sri Saikia held Sri Nath by his collar, so it is very difficult to visualise, how such a blow could be hit on the right side of the head of Sri Nath, as it was expected that when Sri Saikia, who was sitting at some distance from Sri Nath, held the collar of Sri Nath facing him and in that event, the blow could not have hit on the right side of the head of Sri Nath, unless ofcourse, Sri Saikia was a left hander. In fact, there was no acceptable evidence on this respect. It was stated by Mr. Nath that Sri Saikia went to his back. It is so, then of course the possibility of Mr. Nath receiving the blow in the right side, cannot be over ruled and that may be possible. But really, there is no other corroborative evidence on this point. The evidence on the snapping of Telephone wire by Sri Saikia was very scanty and the Enquiry Officer, in that view of the matter, was duly justified in making the findings to that respect. There was also no cogent and convincing evidence, on the use of the word "Faltu" by Sri Nath and if really such word was used by him, the position was very unfortunate. Sri Nath has ofcourse denied to have used such term and no contrary and cogent legal evidence was available.

51. It must also be noted that the Medical evidence was not sufficient, as the Medical Report was not duly produced, to prove any injury caused by the blow of Sri Saikia. I hold that Sri Saikia really intended to obstruct Sri Nath from discharging and performing his duties as Manager of the concerned Branch and that would be enough to hold him guilty of misconduct and assault, in the circumstances as indicated, as he had on such authority and since assault will not only mean physical assault, but will include assault of any other kind, I find that the acts and actions of Sri Saikia, in the facts of the case, to some extent, be also described as riotous and I feel that he has also, to a great extent, exceeded his authority, even as an office bearer of the Branch unit of the said Union, even trying to protect the interest of the two employees concerned or raising protest against the actions taken against them, which actions again, were absolutely Mannerical functions and taken in Administrative exigencies. If Sri Saikia, really and bonafide intended to protect the interests of the two

employees concerned, he should, in my view, without taking recourse to show and establish authority, have proceeded and taken steps constitutionally and as a bonafide Trade Unionists. There is ofcourse evidence that Sri Saikia's working's were satisfactory and during the discussions, he kept himself cool and composed. Even then, on the basis of the statements as recorded, I find that he should have duly maintained office discipline and decorum, which, he, as a Trade Unionist, was bound to maintain and thereby, set some good example for his followers and other employees.

52. The enquiry as held in this case, was due and in such enquiry, there was no derth of opportunities received by Sri Saikia, to produce evidence, to prove that he was not guilty of the charges and the fact that the Enquiry Officer exonerate him, on the question of inflicting blows and snapping the Telephone wire, showed, proved and has established that the enquiry was held with an open mind and there was no bias or prejudice of the Enquiry Officer. The conduct of Sri Saikia as indicated earlier, proved assault to the extent as indicated and non consideration of such fact by the Enquiry Officer duly and that there was no mitigating circumstances, for which, the defence of Sri Saikia could be accepted, has to a great extent established, perversity. The enquiry, as held in this case, was not otherwise bad or there was any question of or not affording Sri Saikia, reasonable opportunities to defend his case or to prove that he was not at all involved in any complicity. Sri Saikia, in fact, did not also take recourse to avail of the opportunities, to produce his evidence in defence, although offered and the plea or his prayers that the said Bank should pay the costs for bringing his defence witnesses, was not reasonable. Thus, I hold and find that Sri Saikia was really guilty of, if not for all, but at least for some of the charges as duly levelled against him. So, the question is what should be the punishment imposed, in the facts and circumstances of the case viz. whether, has order of dismissal should be upheld or he should be awarded some other lesser punishment and that too, at least for promotion, maintenance and protection of office discipline and decorum, as mentioned earlier.

53. It cannot and should not be the Rule that in all cases of findings of guilt, the employee concerned should be awarded the maximum punishment of dismissal/termination from service and such imposition would vary on facts from case to case. A line must be drawn appropriately in all cases of punishment, so that, the Rule as indicated and evolved by the Supreme Court in the case of Scooter India Ltd. Vs. Labour Court, Lucknow and Ors. (Supra), can be followed and applied. Here in this case, even though the conduct of the said Sri Saikia was certainly against all norms, decorum of office discipline, yet, I feel that in the facts of this case and more particularly when, there was no evidence of inefficiency and more particularly the evidence was otherwise, Sri Saikia should be given a chance to reform himself. In that even also, his conduct should not be overlooked and that too, for the reasons as indicated earlier and as such, I direct that instead of his dismissal, a punishment of stoppage of his two increments, if deferred, would be enough and would serve the necessary and required purpose and to pass such an order, I think, this Tribunal has power, under Section 11A of the said Act or on the basis of the determinations as cited at the Bar. It should further be noted that while on the powers of this Tribunal under section 11A of the said Act, reference was also made by Mr. Majumdar, to the case of Post Graduate Institute of Medical Education and Research, Chandigarh, Vs. Labour Court, Chandigarh & Anr. 1990 (1) L.L.J. 70, which amongst other, has indicated that when once the misconduct is proved and punishment is not vitiated by malafides or unfair labour practice, the Court cannot interfere with the quantum of punishment. Here, in this case since all the charges were not duly proved or brought home, so I feel that the punishments imposed, without duly considering the other conduct and character of the said Sri Saikia, so the case as cited is also distinguishable and non-consideration of all the necessary facts is inflicting the punishment, duly, will be a case of vitiating the maximum punishment, as imposed. It must also be indicated that in the case of Management of Marine Diesel Engine Project etc. Vs. State of Bihar & Ors., 1981 Lab. I. C. 1370, which was also cited at the Bar, reinstatement of a workman, can be denied, in a case of the present nature, in case of exceptional circumstances viz. such order may effect industrial peace etc. I feel that if reinstatement is ordered in this case, there will be possibility of In-

dustrial peace being hampered and unrest in the matter of maintenance of such peace, which also includes and requires maintenance of office discipline.

54. In view of the findings and observations as above, I thus direct, even though Sri Saikia was duly found to be guilty, his order of dismissal, be set aside and the punishment of dismissal be substituted by the punishment as proposed in paragraph 53 above.

55. I find that the charges framed against Sri Saikia were not motivated. Of course, the charges framed against him for threatening Sri Nath on his way leave from the Police Station has not been duly proved or brought home and established. I further find that the withdrawal of the F.I.R. as filed by Mr. Nath, could not be a bar for the said Bank, to proceed against Sri Saikia, Departmentally.

56. This is my Award in respect of the case of Sri Saikia only and as involved in the Reference and I have made such Award, on the invitation of the parties and that too, without creating a precedence.

MANASH NATH ROY, Presiding Officer

Dated, Calcutta.

The 24th February, 1993

नई दिल्ली, 2 अप्रैल, 1993

का.आ. 796.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, सिन्डिकेट बैंक के प्रबन्धनत्व में संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचतट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-3-1993 को प्राप्त हुआ था :

[संख्या पल-12012/332, 90-आई आर बी II]

वी.के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 2nd April, 1993

S.O. 796.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Syndicate Bank and their workmen, which was received by the Central Government on 31-3-1993.

[No. L-12012/332/90-IRB II]

V. K. VENUGOPALAN, Desk Officer

BEFORE SHRI GANPATI SHARMA: PRESIDING OFFICER: CENTRAL GOVT. INDUSTRIAL TRIBUNAL: NEW DELHI

I. D. No. 13/91

In the matter of dispute between :

Shri U. S. S. Rao,  
1/9898, Gali No. 3,  
West Gorakh Park, Shahdara-32.

Versus

The Assistant General Manager,  
Syndicate Bank,  
Zonal Office,  
Sarojini House,  
6, Bhagwan Das Road,  
New Delhi.

APPEARANCES:

None for the workman.

Shri K. Laxmi Narain on behalf of the Management.



## AWARD

नई दिल्ली, 2 अप्रैल, 1993

The Central Government in the Ministry of Labour vide its Order No. L-12012/332/90-IR.B(I) dated 12-2-1991 has referred the following industrial dispute to this Tribunal for adjudication:

"Whether the action of the management of Syndicate Bank, New Delhi, in dismissing Shri U.S.S. Rao vide letter dated 12/24-10-87 was justified? If not to what relief the workman is entitled to?"

2. The workman in his statement of claim alleged that he was appointed as a clerk in the bank in the year 1975, and worked very regular and diligently. He was chargesheeted and suspended vide letter dated 20-8-84 with the allegation that while working as clerk at St. Xaviers School Extension Counter, he passed a fictitious entry in the books of account and had a beneficial gain to himself. On 25-8-84 he made a fictitious entry for Rs. 1200/- in his saving account No. 3846 by passing a cheque bearing No. 538101 for Rs. 1200/- presented in clearing. He denied having passed any such cheque. The petitioner suspension was revoked on 11-12-1984 and Shri B. K. Raju Assistant Personal Manager, Zonal Office was appointed as Enquiry Officer to conduct the enquiry. He was harassed, his house loan was not sanctioned and the school fee of his son was not paid. During the course of enquiry the workman petitioner fell sick seriously and submitted necessary medical certificates before the enquiry officer and requested him to postpone the enquiry for sometime, but the enquiry officer did not care and continued the enquiry arbitrary. No sufficient opportunity was given to the petitioner nor he was in a position to defend himself due to his serious sickness and the enquiry officer gave his report on 10-9-85 holding him guilty of the charges levelled against him. The enquiry was not fair and proper and as such the findings were not binding. The appeal filed by him was also decided illegal by the General Manager. Hence it was prayed that the enquiry was null and void. The claim and was entitled to continuity of service and back wages by reinstatement.

4. The management in reply alleged that the allegations made in the statement of claim were not correct. He was suspended and chargesheeted. An action was taken on the basis of the enquiry during which period he had been regularly attending the office and was in normal health. The action taken by the management was according to law and fully justified and within the ambit of the Bipartite settlements.

5. The workman did not appear on 16-6-92 and a notice was ordered to be issued to him but inspite of service by registered A.D. notice he did not appear on the next date of hearing and was proceeded against ex parte and hereinafter again he never appeared during these proceedings.

6. The management in support of its evidence produced Shri B. K. Raju MW1 and Shri K. Lakshminarayana MW2. They also filed affidavit in support of their affidavit and also made statements on oath. From the statements of the two witnesses who had no ill will against the claimant and have made sworn testimony duly supported by affidavit. I am of the view that the management had conducted the enquiry in a legal manner and there was nothing to hold that the enquiry was unfair and improper or the workman himself has not cared to come into the witness box nor cross-examined these witnesses and had exonerated himself from the proceedings for reasons best known to him. I, therefore, am satisfied that the enquiry conducted by the management was fair and proper and the action taken by the management was also fully justified. Parties are left to bear their own costs.

Dated 8-2-1993.

GANPATI SHARMA, Presiding Officer.

का.प्रा. 797.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 अ अनुसरण में, कन्द्रीय सरकार, बैंक आफ महाराष्ट्र के प्रबन्धतन्त्र के संबद्ध नियोजकों और उन के कर्मचारों के बीच अनुबन्ध में निदिष्ट औद्योगिक विवाद में कन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट को प्रकाशित करती है, जो कन्द्रीय सरकार को 31-3-1993 को प्राप्त हुआ था।

[संख्या एल-12012/280/83-डी-2(ए)]

बी.के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 2nd April, 1993

S.O. 797.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Maharashtra and their workmen, which was received by the Central Government on 31-3-1993.

[No. L-12012/280/83-D.II (A)]

V. K. VENUGOPALAN, Desk Officer

## ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NEW DELHI

J.D. No. 34/84

In the matter of dispute between:

Shri Krishan Kanhaiya,  
represented by Union of Maharashtra Bank Employees,  
898, Nai Sarak, Chandni Chowk,  
Delhi-6.

Versus

Bank of Maharashtra,  
Through the Assistant General Manager,  
North Zone-I,  
6/30-31, WEA Karol Bagn,  
New Delhi.

## APPEARANCES:

Shri J. M. Sood—for the workman.

Shri N. C. Sikri, Senior Advocate with Shri V. K. Rao—for Management.

## AWARD

The Central Government in the Ministry of Labour vide its Order No. L-12012/280/83-D.II(A) dated 30-3-84 has referred the following industrial dispute to this Tribunal for adjudication:

"Whether the action of the Management of Bank of Maharashtra in terminating the services of Shri Krishan Kanhaiya is justified? If not, to what relief the workman is entitled to?"

2. The case of the workman—Mr. Krishan Kanhaiya is that he was appointed as Peon in Chandni Chowk Branch, Bank of Maharashtra and then was transferred to Branch Office, Meerut (U.P.). Later he was posted as Daftry on account of his seniority. Krishan Kanhaiya claims that he was elected as Joint Secretary in December, 1979 in the U.P. Bank Workers Organisation in Annual General Body Meeting held on 5th December, 1979 and that his trade union activities were not liked by the Management and the management at the instance of other Union affiliated to AIBFA started harassing him with the sole motive of victimisation.

3. Mr. Krishan Kanhaiya, Peon appeared for promotion as a Clerk but his result was withheld by the Management and he was suspended on 14-8-81. On 28-8-81, the manage-

ment served him charge-sheet containing the following allegations :

- (a) On 3rd March, 1981, he refused to clean the table/chair of the Branch;
- (b) On 14th June, 1981, he refused to sit late for overtime;
- (c) He refused to wear uniform on different dates;
- (d) Without prior information he remained absent on 11-7-79, 27-7-79, 16-8-79, 6-9-79, 28-9-79 in 1979 15-7-81 to 25-7-81 in 1981.

4. The Union of Maharashtra Bank Employees in its statement of claim asserted that the allegations were levelled simply for victimisation of the employee and there was no satisfactory evidence of the Management to prove the charges and that during the pendency of the enquiry. The Management abruptly terminated his services. The enquiry was started on 3-4-82 but on 17-1-83, Krishan Kanhaiya's services were terminated vide No. AXI/ST/477/83 in terms of paragraph 511(1) of Sastry Award offering three month's emoluments in lieu of notice and indicating that he shall be paid retrenchment compensation under the law, which he was duly paid. The contention of the Union being that the bank has acted in violation of principles of natural justice and against the provisions of Section 25-F of the I.D. Act and that the action taken by the Management was unfair and improper and an act of victimisation to ruin his career.

5. That it was only before ALC(C) in the conciliation proceedings that the management have pleaded that the workman had committed forgery and written complaints against the Manager to the Management in the name of customer. The workman, accordingly, has pleaded that he be reinstated with effect from the date of his termination of service with full back wages and continuity of service and that he be treated as a Clerk from the date of declaration of result of the other employees which was withheld arbitrarily in his case and his salary be got refixed in the new scale and be paid arrear and that he should be extended all benefits to which he is entitled as per the Bipartite Settlement as modified upto date alongwith suitable costs.

6. The Management of Bank of Maharashtra has contested the case stating that the action of the bank is bona fide and in accordance with the provisions of Para 522(1) of Sastry Award and as much the determination of the workman by way of discharge simpliciter was for loss of confidence and the action of the bank is valid, proper and satisfied by the Bipartite Settlement which have since acquired the status, amongst others, section 19(3) of the Banking Regulation Act as well, and that the workman is not entitled to any relief in the circumstances of the case, more so when his act is coupled with depravity of conduct having the element of forgery and/or fraud coming within the purview of moral turpitude as well.

7. The Bank Management has denied the allegation of the Union in respect of his alleged Union activities and has further asserted that the action of the bank was bona fide and according to Law. The case of the Bank is that the workman was suspended on 14-8-81 on an information that he has indulged in various grave acts of misconduct. The chargesheet was issued to him on 28-9-91 and that the charges were very grave and it was very undesirable to allow him to work, with an emphasis by the management that the charges were of such a nature that no reasonable employer could tolerate the misconducts committed by him.

8. That it is undisputed fact that one Shri R. S. Chinchalkar was appointed as Enquiry Officer. But in view of the aforesaid serious act, the management had right to resort to termination. The management has further asserted that the power as exercised by the management besides being legal, was bona fide and that the bank could not be prohibited from terminating the services before completing the inquiry more especially when the bank received letters purported to have been sent by various customers of the Branch, in which serious complaints were made against the Manager, Meerut Branch, where the applicant was working. The management has further asserted that the management has made bona fide facts

finding inquiry and it was during the inquiry/investigations, it was revealed that the alleged complaint is made against the Management were false and frivolous and that it was the concern workman who was instrument in making such complaint with ulterior motive. The management has further asserted that with a view to probe into the matter further, these letters were handedover to different handwriting experts and they gave the opinion that the complaints letters received in the Branch were written by the concerned workman. The management as such has alleged that it was in these circumstances that the management has thought it proper to terminate the services of the workman on 17-1-81 in terms of para 522(1) of Sastry Award. The case of the Management is that the retrenchment compensation/notice pay was given to the workman as under :—

— Three month's pay & Allowances	—Rs. 2604.00
— Retrenchment compensation	—Rs. 3472.00
— Subsistence allowance from 1-1-83 to 24-1-83	— Rs. 324.71
— Remaining part of salary	— Rs. 7165.45
	<hr/> Rs. 13566.16 <hr/>

The Management has also asserted that he has been paid gratuity and provident fund and the management action being bona fide and according to law, it should not be interfered with. Accordingly, his claim warrants to be dismissed.

9. The management in support of its case also filed the affidavit of one Shri S. Neelakanthan, Staff Officer of the Management Bank at Karol Bagh, who has been cross-examined by the workman and the workman filed his own affidavit and was subjected to cross-examination by the Management.

10. After the evidence of the management had been closed on 1-4-85, the management made an application to examine Shri V. K. Sahkuje, Hand writing expert to prove that certain complaints allegedly by customers were in fact scribbled by Krishan Kanaiya himself and that was the cause why his services were terminated by the Bank and that it was a case of loss of confidence in the workman.

11. That my predecessor Shri O. P. Singla, the then Ld. Presiding Officer, however, vide his order dated 5-6-85 rejected the application of the management to erstwhile the misconduct before Tribunal. Accordingly, my said Ld. president by his Award dated 14-8-85 gave the relief of the reinstatement to the workmen.

12. That aggrieved by the said Award of my predecessor, the bank management filed C.W.P. No. 2739/85 in the High Court of Delhi at New Delhi. The Hon'ble High Court upon hearing was pleased to admit the writ petition and also granted stay of the impugned Award. The matter was finally heard by the Hon'ble Delhi High Court per Hon'ble Mr. Justice Mahesh Chandra (as his lordship then was) who vide his detailed judgment and order dated 2-3-89, quashed the impugned award of my Ld. predecessor and remanded the case to this Tribunal allowing the bank to lead its evidence. Consequently, the matter has been remanded back to this Tribunal for further adjudication.

13. That pursuant to the above said judgment and order of the Hon'ble Delhi High Court which has not been challenged by either party, the management led evidence of Sakhuja, hand-writing expert in support of its case, his report being already on record. He was cross-examined at length on 7-3-91 by Ld. counsel in respect of his detailed report dated 19-10-82.

14. That on 7-3-91, the claimant/workman Mr. Krishan Kanhaiya, however brought additional evidence of one Shri Karan Singh, S/o Shri Mewa Ram as WW-2 in support of his case and proved his affidavit dated 26-11-90 (WW2/1). It is relevant to state that the said witness Shri Karan Singh owned his witness on the questioned documents but expressed his ignorance as to the contents thereof with an unequivocal admission to the effect that he had taken loan



of Rs. 10,000 from the bank, out of which he had paid Rs. 5,000.

15. That at this stage it is relevant to state that bank's representative made an application for calling Mr. Krishan Kanhaiya WW-1 workman concerned herein for his cross-examination, more so in the interest of justice and in the light of evidence of the hand-writing expert, which application after detailed hearing, was however rejected.

16. In view of the direction of the Hon'ble Delhi High Court, the matter was fixed for hearing. The parties in support of their respective cases filed their written arguments in continuation of the oral arguments. The Ld. Representative of the workman filed written argument the management also filed detailed arguments with a rejoinder of the workman in rebuttal of arguments filed by the applicant.

17. The Ld. Counsel of the bank has emphasised that the very fact that the bank has acted pursuant to investigation and/or lead the evidence before this Tribunal, which is supported by the hand-writing expert report as well, besides the evidence of MW-1 and that instead of resorting to action of dismissal, it had terminated the services by way of discharges simpliciter in terms of para-522(1) of Sastri Award which has received statutory character. The action of the bank is based upon legislative cum public policy which does not warrant to be interfered in the circumstances of the case. More particularly the conduct of the workman is not above board, which has been proved besides the bank's investigation officer, by independent opinion of the hand-writing expert having background of 25 years experience in this field. The Ld. representative has further emphasised his submission that the very fact that no doubt, handwriting expert has been cross-examined in length, but had no factum of improvement of the workman. The documents alleged to be forged culminating into action by the bank with further basic feature that the workman has not denied certain documents written in his hand-writing, which the Tribunal as an adjudicator could easily compare to arrive at its conclusion that the document in question are written by Mr. Krishan Kanhaiya. In rebuttal to the evidence of WW-2. Shri Karam Singh Ld. representative of the bank has asserted that the very fact that he has been brought to after lapse of 10 years only to save the workman, with further unequivocal statement that he has appended the signatures to the documents without knowing the contents thereof as he is illiterate, is of no consequence more particularly when as per his own admission, he has not paid the entire borrowed amount of Rs. 10,000/- to the bank as well.

18. To precise the contention of the bank is that in conducting the inquiry, the Tribunal has to keep in mind that the strict and sophisticated rules of evidence under the Indian Evidence Act do not apply and that all material which are logically probative for a prudent mind are permissible with a further assertion that even there is no allergy to hearsay evidence, provided it has reasonable nexus credibility. Accordingly, the case of the bank is that fraudulent acts on the part of the workman concerned stand proved and he is not entitled to reinstatement. According to the Ld. representative, the action of the bank is valid, proper in the circumstances of the case and as per submissions made by the bank.

19. In rebuttal, the Ld. representative of the workman has emphasized that the bank has not been able to prove its case as it warrants to be proved in respect of alleged fraudulent acts of the workman and that the other charges levelled against the workman are only of minor nature in terms of his service condition which do not warrant such a punishment. Accordingly, the Ld. representative of workman has asserted that the action of the Bank warrants to be quashed and he is entitled to reinstatement with full back wages and continuity of service.

20. On perusal of the record, evidence and arguments as led by both the parties including after remand of the case by the Hon'ble High Court, as aforesaid, I am of the view that the bank has not conclusively proved its case of forgery. However, yet another aspect which persuades me to give this Award and relief as detailed herein-after, is that in any case, the punishment of dismissal on account of loss of confidence, which undisputedly is a misconduct, in obviously harsh and not commensurate with misconduct committed by the workman as per case of the bank. Even if I accept the

contention of the Ld. representative of the Bank that in a departmental inquiry, strict rules of evidence do not apply and that all the material which are logically probative for a prudent mind are permissible. I may add that it is well settled law that I as an adjudicator, am within my power to interfere with the action of the management where I adjudicate that the punishment inflicted by the employer, as I find in the instant case, in harsh and/or disproportionate and/or not commensurate with misconduct committed, which as per my findings, I feel and rather find, so in the instant case.

21. However, it is an undisputed fact that other charges as levelled by the bank besides the act of forgery, come within the purview of minor misconduct in terms of the Bank Award, as modified by Bipartite Settlement, but so far as the acts of forgery are concerned, there is no dispute that they are very serious and grave. By the alleged complaint, all that the workman has done is to make false complaints even according to the contentions of the bank itself. This weighing and out-weighing the respective conventions/submissions of the parties. I still feel that the punishment as inflicted on the workman is obviously, more particular in view of the young age of the workman and warrants my interference, which I am well within my right to do so, but being well alive that discipline is the need of the hour, more so for healthy administration.

22. Accordingly, in view of the findings discussed above duly supported by record, I feel that justice would be done both the parties by making the following award which I do hereby—

- (1) that the workman's two increments will be stopped permanently with cumulative effect.
- (2) In the peculiar circumstances of the case, the workman will be entitled to back wages @ 50% from date of his termination till the date of his award.
- (3) In view of the above, workman stand reinstated with continuity of service subject to the above.

I Award accordingly.

GANPATI SHARMA, Presiding Officer

Dated 12-2-93

नई दिल्ली, 6 अप्रैल, 1993

का.आ. 798.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, सेंट्रल बैंक ऑफ इंडिया के प्रबन्धनत्व के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-4-1993 को प्राप्त हुआ था।

[संख्या एल-12012/246/90-आईआर बी-2  
वी. के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 6th April, 1993

S.O. 798.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workmen, which was received by the Central Government on 6-4-1993.

[No. L-12012/246/90-IRB-II]  
V. K. VENUGOPALAN, Desk Officer

## ANNEXURE

BEFORE SHRI GANPATI SHARMA : PRESIDING OFFICER : CENTRAL GOVT. INDUSTRIAL TRIBUNAL : NEW DELHI

I. D. No. 3/91

In the matter of dispute between :

Shri Shyam Kumar Deshpandey (Excuse)  
E-120, Motibagh, New Delhi-110021.

Versus

Deputy General Manager, Central Bank of India, Zonal Office, Link House, 4, Bahadur Shah Zafar Marg, New Delhi.

## APPEARANCES :

Shri R. Tara Chand Gupta for the workman.  
Shri N. Naganathan for the management.

## AWARD

The Central Government in the Ministry of Labour vide its Order No. L-12012/246/90-I.R. (B-2) dated 11-1-91 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management of Central Bank of India in terminating the services of Shri Shyam Kumar Deshpandey w.e.f. 23-4-84 is justified ? If not to what relief the workman concerned is entitled?"

2. The case was fixed for 15-2-93 when the parties appeared on 10-2-93 and put a joint application stating therein that the settlement has been arrived at between the parties and the settlement may be recorded.

3. The case was taken up at the request of the parties and the parties made statement that the settlement dated 2-2-93 Ex. M-1 was arrived at and they shall remain bound by the terms of the said settlement. No dispute now exists between the parties.

4. In view of the settlement Ex. M-1 which shall be part of this award parties shall remain bound by its terms. Parties are left to bear their own costs.

GANPATI SHARMA, Presiding Officer

15th February, 1993

MEMORANDUM OF SETTLEMENT ARRIVED AT BETWEEN THE MANAGEMENT OF CENTRAL BANK OF INDIA AND SHRI SHYAM KUMAR DESHPANDE REPRESENTED BY CENTRAL BANK STAFF UNION, DELHI IN THE MATTER OF REINSTATEMENT OF SHRI DESHPANDE IN BANK'S SERVICE

Representing Employer.—Shri N. Naganathan, Chief Manager (PRS), Central Bank of India, Zonal Office, 4, Bahadurshah Zafar Marg, New Delhi-110002.

Representing Employee.—Shri Tara Chand Gupta, Chairman, Central Bank Staff Union, Chandni Chowk, Delhi-110006.

Shri Om Parkash Sharma, General Secretary, Central Bank Staff Union, Chaudni Chowk, Delhi-110006

Employee/workman concerned.—Shri Shyam Kumar Deshpande C/o Shri D. V. Luley, Quarter No. 567, Sector VIII R. K. Puram, New Delhi-110022.

## SHORT RECITAL OF THE CASE

Whereas the workman concerned, Shri Shyam Kumar Deshpande, after a criminal trial was convicted by a Criminal Court and the bank as per Section 10(1)(b)(i) of the Banking

Regulation Act, 1949 discontinued the employment of Shri Shyam Kumar Deshpande and dismissed him from the services of the bank.

And whereas the workman concerned, Shri Shyam Kumar Deshpande, aggrieved from the action of the bank raised an industrial dispute which was referred for adjudication before the Industrial Tribunal, New Delhi. This dispute is still pending before the Industrial Tribunal. However, discussions were held between the management and the workman concerned/union and it was decided to settle the dispute on the following :—

## TERMS OF THE SETTLEMENT

1. Shri Shyam Kumar Deshpande will be reinstated in the Bank and shall be posted in any Office in Jaipur/Kota Region after 30 days of passing the "No Dispute Award" by the Tribunal.
2. The salary of Shri Deshpande will be at the same stage on reinstatement where it was at the time of dismissal which will notionally be fixed in terms of the Fifth Bipartite Settlement in force.
3. No increments between the date of dismissal and the date of reinstatement shall be paid, and no arrears of salary or any other financial benefits and accumulation of leave balance including LTC, etc. shall be paid/allowed during this period.
4. Next two increments falling due after the date of reinstatement of Shri Deshpande shall be stopped.
5. No dispute regarding promotion or for any other post attracting Special Allowance shall be raised by Shri Deshpande or by any other Union on his behalf.
6. This will not be quoted as a precedent.

Representing Employer  
(N. Naganathan)  
Chief Manager (PRS)  
Central Bank of India,  
Zonal Office,  
4, Bahadurshah Zafar Marg,  
New Delhi  
Represented Employee  
(Tara Chand Gupta)  
Chairman,  
Central Bank Staff Union,  
Chandni Chowk, Delhi-6  
(Om Parkash Sharma)  
General Secretary,  
Central Bank Staff Union,  
Chandni Chowk, Delhi-6  
(Shyam Kumar Deshpande)  
Workman concerned  
Otr. No. 567, Sector VIII,  
R. K. Puram  
New Delhi-110022  
Dated : 2-2-1993

नई दिल्ली, 6 अप्रैल, 1993

का. अ. 799.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, बैंक आफ महाराष्ट्र के प्रबन्धतन्त्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-4-1993 को प्राप्त हुआ था।

[संख्या एल-12012/189/90-आई आर बी-2]  
बी. के. बेणुगोपालन, डेस्क अधिकारी

New Delhi, the 6th April, 1993

S.O. 799.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Maharashtra and their workmen, which was received by the Central Government on 6-4-1993.

[No. L-12012/189/90-IR B.II]  
V. K. VENUGOPALAN, Desk Officer

## ANNEXURE

BEFORE SHRI GANPATI SHARMA : PRESIDING OFFICER : CENTRAL GOVT. INDUSTRIAL TRIBUNAL : NEW DELHI

I.D. No. 120/90

In the matter of dispute between :

Shri Man Singh through, The General Secretary, Mahabank Karamchari Sangh, 898 Nai Sarak, Chandni Chowk, Delhi-6.

Versus

The Deputy General Manager, Bank of Maharashtra, North Zone 6/30-31, W.E.A., Karol Bagh, New Delhi.

## APPEARANCES :

Shri Ramesh Kadam for the workman.  
Shri A. K. Yadav for the Management.

## AWARD

The Central Government in the Ministry of Labour vide its Order No. L-12012/189/90-IR.B-II dated 12-10-90 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management of Bank of Maharashtra in not giving Cash carrying allowance peon post to Shri Man Singh though senior to Sh. Budh Ram at East Patel Nagar Branch, was justified ? If not to what relief the workman is entitled ?"

2. The case was fixed for the evidence of the workman. His representative made statement that the workman was not coming to appear in this case despite best efforts and was not interested in pursuing the dispute. He stated that No dispute award may be given in this case.

3. In view of the statement of Shri Ramesh Kadam representative for the workman there exists no dispute between the parties in this case. Therefore, a No dispute award passed in this case leaving the parties to bear their own costs.

GANPATI SHARMA, Presiding Officer

16th March, 1993.

नई दिल्ली, 6 अप्रैल, 1993

का. अ. 800.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, भारतीय जीवन बीमा निगम के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, कोल्लम के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-4-1993 को प्राप्त हुआ था।

[संख्या एल-17012/155/90 आई आर बी -2]  
बी. के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 6th April, 1993

S.O. 800.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Kollam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of LIC of India and their workmen, which was received by the Central Government on 2-4-1993.

[No. L-17012/155/90-IRB II]  
V. K. VENUGOPALAN, Desk Officer

## ANNEXURE

IN THE COURT OF THE INDUSTRIAL TRIBUNAL, KOLLAM

(INDUSTRIAL TRIBUNAL, KOLLAM)

(Dated this the 5th day of March, 1993)

## PRESENT :

SRI C. N. SASIDHARAN  
INDUSTRIAL TRIBUNAL  
IN

Industrial Dispute No. 4/91

## BETWEEN

The Senior Divisional Manager, LIC of India, Divisional Office, Jeevan Prakash, P. B. No. 1001, Pattom, Trivandrum-695004.

(By Shri S. S. Kalkura, Advocate, Trivandrum)

## AND

The General Secretary, Insurance Employees Union, Trivandrum Division, T. C. No. 2/2425, Pattom, Trivandrum-695004.

(By Shri R. Lakshmana Iyer, Advocate, Trivandrum)

## AWARD

This industrial dispute has been referred for adjudication to this Tribunal by the Government of India as per Order No. L. 17012/155/90-IR.B (II).

The issue of adjudication is :

"Whether the action on the part of the management of LIC of India, Trivandrum in proposing to recover Rs. 310 from Shri V. Meenakshi Sundaram, Assistant as excess payment towards leave travel concession availed by him between 15-11-88 to 19-11-88 is legal and justified ? If not how his bill for the said travel is to be settled ?"

2. The case of the union representing the workman Shri Meenakshi Sundaram as stated in the claim statement is briefly as below : The workman is a member of this union. Leave Travel Concession (for short LTC) is a perquisite allowed to the employees of the LIC of India (the management for short). Such facility was extended to Class III and Class IV employees of management on the basis of settlement and as per circular of management dated 8-8-1972 given retrospective effect from 1-4-1972. The employees covered under the scheme are allowed to proceed on journey under LTC by different modes of travel. An Employee is allowed to proceed on journey by any mode of travel of his choice. But the reimbursement

under LTC is restricted to the fair for journey by the appropriate class in the train. The workman while working as an Assistant (Class III) had submitted a proposal for LTC tour from 15-11-1988 to 19-11-88 stating the mode of travel as authorised tourist taxi. On his request he was granted an amount of Rs. 1,000 towards advance. The workman after completion of the tour submitted his claim on 22-11-1988. But the management instead of allowing the claim served him a letter stating that the claim had been passed only for an amount of Rs. 690 being the second class railway fair for 1080 kilometres and directed him to remit Rs. 310 as excess advance drawn by him. He was actually entitled to an amount of Rs. 2,870 equal to first class train fair. His repeated requests for reimbursing the amount were rejected. This according to the union is illegal, arbitrary and unfair. The workman claimed for LTC tour by taxi on the basis of circular of management dated 22-8-1979. His proposal was duly approved by the management and he was paid Rs. 1,000 as advance. Class III employees who had undertaken the LTC tour by engaging a taxi were being paid the amount limited to first class train fair during the last more than ten years. The workman actually paid Rs. 2,870 for the journey undertaken by him and his family. The management is estopped from contending that Class III employees were not permitted to undertake the LTC tour by engaging taxi. The management had not published any notice regarding changes if any in limiting the amount to Class III employees. The claim is for the balance amount of Rs. 1,870 from the management.

3. The management opposes the claim. The case of management is briefly as below : The claim is not maintainable either in law or on facts. This Tribunal has no jurisdiction to entertain this claim and the claim is not maintainable. The reference is bad in law and is contrary to the provisions of Industrial Disputes Act. The workman was not entitled to any benefit as claimed by the union. The workman belongs to Class III cadre of management. The management had sanctioned an amount of Rs. 1,000 as LTC on the basis of a mistaken interpretation of the Central Office circular dated 22-8-1979. The clarification contained as per circular dated 22-8-1979 related strictly to LTC of Class I and Class II officers only. The words "all categories of employees" in the above circular were wrongly interpreted by some divisions of the management as applying to all employees of the management and concessions were mistakenly accorded to those who were not actually entitled to the benefit. This mistake was subsequently corrected and all divisions were directed to make recoveries from Class III and Class IV employees to whom LTC was mistakenly paid. Accordingly an amount of Rs. 310 was sought to be recovered from the workman. The recovery of the excess amount paid to the workman is perfectly legal and valid as he is not entitled to the benefit of LTC for journey undertaken by him in a taxi car. The workman has no manner of right whatsoever to claim first class train fair for 1350 kilometres. The management has not extended the facility of journey in an authorised tourist car as a mode of travel of Class III employees. This facility was available to Class I and Class II employees of management. The circular issued by the management are under the provisions of LTC of India Act and have the force of law and are

binding on the employees. As such there can be no estoppel as contended by the union. The management denies all other allegations made by the union. According to the management the workman is not entitled to any relief and the proposed recovery of Rs. 310 from the workman is legal and justified.

4. The workman was examined himself as WW1 and Exts. W1 to W8 have been marked on his side. The management did not adduce any moral evidence. However, Exts. M1 to M4 have been marked on their side.

5. The management has raised preliminary objections to the effect that this Tribunal has no jurisdiction to entertain the present claim and that the reference is bad in law. According to the union, the management has effected a change in the service condition of the workman by rejecting the claim put forward by the workman for LTC for undertaking a journey by taxi car. The change in the service condition of the workman according to the union can be made only after giving notice under Section 9A of the Industrial Disputes Act, 1947 (I.D. Act for short), which has not been given to the workman. The learned counsel for the management pointed out that after the amendment in the LIC Act 1956 The Act for short) dated 17-3-1981 and the rules made on February 2, 1981 anything contained in the Industrial Dispute Act or any other law or any agreement, settlement, award or other instalment in force ceased to have any force by the amending Act and the rules made regarding terms and conditions of service. The right to raise an industrial dispute in respect of matters dealt with by the rules will be taken away and to that extent the provisions of Industrial Dispute Act will cease to be applicable. The said amendment was challenged by before the Supreme Court in the case between A. V. Nachane V. Union of India reported in AIR '82 Supreme Court 1126. The court rejected the challenge and held in paragraph 8 of the judgement that after the amendment the provisions of the Industrial Dispute Act has no application in the matter of service conditions of employees of LIC and reference to 4th schedule of the Industrial Dispute Act is wholly irrelevant. The Supreme Court further held that the amending Act of 1981 and the rules made on February 1981 will not inference Article 14 of the constitution. Relying on the above Supreme Court decision the High Court of Calcutta considered the same question in appeal No. 656/89 (LIC of India and other V. Perumal Chandra Raha and Others) (A photocopy of the judgement of the Calcutta High Court dated 10-10-91 has been produced before this Tribunal by the learned counsel for the management). The High Court after quoting the observations made by the Supreme Court in paragraph 8 in the decision mentioned above has held that after the said amendment provisions of the Industrial Dispute Act has no application in the matter of service condition of employees of LIC. The observations made by the Calcutta High Court towards end of the judgement is worth quoting as below :

"It is needless to record that recent amendment of the LIC Act, 1956 by the Amending Act, of 1981 clearly provides that the power to make regulation in regard to terms and conditions of service shall be affected notwithstanding anything contained in the

Industrial Disputes Act, 1947. The Staff Regulations formed by the Board in regard to terms and conditions of the employees is now regulation formed by the Central Government under newly incorporated clause (cc) of sub-section 2 of Section 48. In the Staff Regulation there is no provision for providing any canteen facilities to the employees.

In the object and reasons of the said Amending Act it is stated that the amendment is necessary "for securing the interest of the L.I.C. of India and its policy holders and to control the cost of administration". After the said Amending Act, 1981 anything contained in the Industrial Disputes Act, 1947 or any other law or any agreement, settlement award or other instalment in force at the several time ceased to have any force. The provision of Clause (b) of Sub-section (2) of S. 49 of LICI Act had been deleted and the clause had been inserted under Section 48(2)(cc) thereby only entitling the Central Government to deal with the terms and conditions of service of the employee of the LICI which was earlier conferred upon the LICI. The said amendment was challenged before the Supreme Court on several grounds in the case of A. V. Nachane vs. Union of India reported in AIR S.C. 1126. The Supreme Court however rejected a challenge to the validity of Amending Act. After the said amendment the provision of the Industrial Disputes Act, 1947 has no application in the matter of service conditions of the employees of LICI and as such reference to fourth Schedule of Industrial Disputes Act is wholly irrelevant".

The above decisions of the Supreme Court and the High Court of Calcutta make it clear that the provision of the Industrial Dispute Act are not applicable with regard to the service conditions of employees of management after the Amending Act, 1985. That being the case the present reference is bad in law and this Tribunal has no jurisdiction to entertain this reference.

6. I shall now pass on to the merits. The grievance of the workman who is a class III employee as contended by the union is that the proposal submitted by him to the management claiming LTC or LTC tour from 15-11-1988 to 15-11-1988 stating the mode of travel as authorised tourist taxi was rejected by the management. The claim is mainly based on Exts. W1 and W2 circulars issued by the management regarding LTC to the employees of management. Ext. W1 is a circular dated 8-8-1972. According to the union LTC is a perquisite allowed to the employees of management and such facility was extended to Class III and Class IV employees on the basis of settlement raised between the management and unions. But no such settlement has been produced here. The provisions of Ext. W1 are not exactly the provisions of the agreement regarding LTC. This circular shows that it was issued by way of administrative instructions regarding procedure for the implementation of the benefit of LTC. The subsequent circulars show that any doubt or ambiguity arising on the instructions in the circulars. Ext. W2, M3 and M4 are such circulars issued subsequently by way of clarification. In Ext. W1 circular there is no mention of eligibility

of Class III and Class IV employees for LTC for travel in taxi car. Ext. W2 is the circular dated 22-8-1979. The union placed much reliance on the second part of Ext. W2 circular for the present claim. The second part of Ext. W2 make it clear that it was issued by way of clarification of Ext. M3 circular dated 9-8-1974. Ext. M3 circular specifically deals with LTC applicable to Class I and Class II officers only. There is not even a whisper regarding Class III and Class IV employees in Ext. M3 circular. As per Ext. W2 the facility of journey in taxi car was available only to Class I and Class II employees of the management. The second part of Ext. W2 circular deals with clarifications and explanations regarding Ext. M3 circular and therefore the details of mode of travel by taxi car discussed therein relate to Class I and Class II employees only. Further as per Ext. M4 circular dated 17-10-1988 the management has further clarified the position. So the claim of the union that the workman submitted his proposal for LTC tour by taxi car on the basis of Ext. W2 circular can only mean that he had claimed the benefit available to Class I and Class II employees which he was not at all entitled to as a Class III employee. There is also no positive evidence to show that the management had allowed Class III employee to undertake LTC journey by taxi car on the basis of any existing right. It is thus clear that the claim of the workman on the basis of Ext. W1 and W2 circulars is unsustainable.

7. According to the union the management has accepted the proposal of the workman for LTC tour by taxi car and he was paid an advance of Rs. 10,000 therefore the management cannot now contend that the workman was not eligible for such facility. It is true that the management has admitted his proposal and paid an advance of Rs. 1,000. But the management has clarified that on account of mistaken interpretation by some divisional offices of the management including the Thiruvananthapuram division had mistakenly extended the facility of travel by taxi car to some Class III employees. Immediately on the mistake having been pointed out the management had clarified the position as per Ext. M4 circular. A Class III employee was not eligible for LTC tour by taxi car as per the circulars mentioned above. So there was no existing right to Class III and Class IV employees for LTC tour by taxi car. It is true that as per Part II of Ext. W2 circular there is a statement "the above instruction shall take immediate effect and will apply to all categories of employees". But the second part of Ext. W2 circular deals with clarifications and instructions regarding Ext. M3 circular which deals with LTC tour of Class I and Class II officers only. So the words "all categories of employees" cannot be interpreted as all the employees of the management belonging to all classes. Such a wrong interpretation made by Thiruvananthapuram division of the management cannot be taken advantage of by the workman, particularly on the ground that the management has issued Ext. M4 circular dated 17-10-1988 clarifying the position clearly.

8. The union has a contention that the management has been allowing Class III employees to undertake LTC tour by engaging taxi and by rejecting the facility to the workman the management has changed the condition of service. According to the union for

such a change the management is bound to issue a notice under Section 9A of the Act. But the management has not issued any such notice and therefore according to the union such change has no legal validity and also the action on the part of the management is illegal and unsustainable. As per the circulars issued by the management regarding LTC and the instructions about which I have discussed above the facility to travel by taxi car was not extended to Class III employees. But the workman was paid an advance an amount of Rs. 1,000 by the Trivandrum Division of management which can be considered only on account of a mistaken interpretation of Ext. W2 circular. The management has not issued any circular changing any service condition for denying the benefit of LTC tour by taxi car to Class III employees. The workman has admitted that the circulars issued by the management from time to time have the force of law. As per the circulars there was no change in the conditions of service and there was no withdrawal of any customary privilege. As such there was no necessity for any notice under Section 9A of the Industrial Dispute Act as claimed by the union. Since the circulars issued by the management have the force of law there can be no estoppel also as against the law.

9. The workman had submitted his proposal claiming Rs. 2,870 stating the mode of travel as authorised tourist taxi. The management has paid him an advance of Rs. 1,000. But as he was not eligible for the amount claimed the management had sanctioned an amount of Rs. 690 as per rules and the workman was requested to refund as balance of Rs. 310 which was paid to him due to a mistake. The action of management cannot be stated to be illegal. The amount was paid to him by a mistake and any benefit rendered by mistake is bound to be returned. On that ground also the action of management and requiring the workman to reimburse the amount of Rs. 310 is perfectly legal and valid.

10. In the result, an award is passed holding that the action on the part of management of LIC of India in proposing to recover Rs. 310 from Sri V. Meenakshi Sundaram is legal and justified and that the workman is not entitled to any relief.

C. N. SASIDHARAN, Industrial Tribunal.

#### APPENDIX

Witnesses examined on the side of worker

W W 1. Sri V. Meenakshi Sundaram.

Document marked on the side of worker

- W1. Photocopy of circular issued by the Central office of management dated 8-8-1972.
- W2. Photocopy of circular issued by the Central Office of management dated 22-8-1979.
- W3. Photocopy of letter issued to Sri Meenakshi Sundaram from the Thiruvananthapuram division office of management dated 3-12-88.
- W4. Photocopy of representation submitted by Sri Meenakshi Sundaram to the superior divisional manager of management, Trivandrum dated 8-12-1988.

W5. Photocopy of letter issued to Sri Meenakshi Sundaram from Thiruvananthapuram divisional office of management dated 3-2-1989.

W6. Photocopy of representation submitted by Sri Meenakshi Sundaram to the zonal manager of management, Trivandrum.

W7. Photocopy of letter issued to Sri Meenakshi Sundaram on Thiruvananthapuram Divisional Office of management dated 25-8-1989.

W8. Photocopy of circular issued to Central office of management dated 5-6-1985.  
Documents marked on the side of management

M1. Photocopy of bill addressed to Divisional Manager of management on Trivandrum from Harish Travels, Trivandrum regarding proposal to Sri Meenakshi Sundaram to have a South India tour.

M2. Form D claim for reimbursement submitted to the management by Sri Meenakshi Sundaram.

M3. Photocopy of circular issued by Central office of management dated 9-8-1974.

M4. Photocopy of circular issued by Central office of management dated 17-10-1988.

अधिसूचना

नई दिल्ली, 7 अप्रैल, 1993

का.सा. 891.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, इंडियन ओवरसीस बैंक के प्रबन्धतन्त्र के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-3-1993 को प्राप्त हुआ था।

[संख्या एल-12011/72/90-आई आर बी.-2]  
बी.के. वेणुगोपाल, डैस्क अधिकारी

New Delhi, the 7th April, 1993

S.O. 801.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Overseas Bank and their workmen, which was received by the Central Government on 19-3-1993.

[No. L-12011/77/90-IRBII]  
V. K. VENUGOPALAN Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA : PRESIDING  
OFFICER : CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL : NEW DELHI

I.D. No. 21/91

In the matter of dispute between :—

Shri Mohan Bahadur and others through Shri S. B. Jain,  
National Executive Member, A.A.O.B.E.U through  
Indian Overseas Bank, Gurdwara Road Karol Bagh,  
New Delhi.

## Versus

Zonal Manager,  
Indian Overseas Bank,  
Rachna Building,  
Pusa Road,  
New Delhi-8.

"Whether the action of the management of Indian Overseas Bank, New Delhi (Delhi Region) in not regularising the services of the workmen as per Annexure A and B with retrospective effect is justified? If not to what relief the workmen are entitled?"

## APPEARANCES :

Shri Rajinder Singh for the workmen.  
Shri R. Sethu Raman for the management.

## AWARD

The Central Government in the Ministry of Labour vide its Order No. L-12011/72/90-I.R.B-2 dated 19-2-91 has referred the following industrial dispute to this Tribunal for adjudication :—

2. This case was fixed today for settlement when Shri Rajinder Singh representative for the workman made statement that the matter has been settled and No Dispute award may be passed in this case. A memorandum of settlement dated 20-5-82 was also filed which is mark 'A'. In view of his statement a 'No Dispute' Award is passed in this case leaving the parties to bear their own costs of the dispute. Party shall remain bound by the settlement.

17th June, 1992.

GANPATI SHARMA, Presiding Officer  
New Delhi.

## ANNEXURE 'A'

## List of Employees who have not been confirmed till date

Name	Present Branch	Date of first Appointment
<b>Watchmen</b>		
1. Mohan Bahadur	Safdarjung Enclave	8-6-87
2. Beli Ram	Model Town	14-4-86
3. Budhi Bahadur	Regional Office	8-6-84
4. Sri Chand Ram	Janpath	17-1-86
5. Balbir Singh	Regional Office	15-4-88
6. Daya Chand	Regional Office	9-5-88
7. Bal Kishan	Regional Office	9-5-88
8. Chand Ram Tanwar	Janpath	17-1-86
<b>Messengers</b>		
1. Govind Kumar	Clearing Office	28-9-85
2. Govindan	Regional Office	10-9-85
3. Raj Kumar	Staff Training Centre	4-12-85
4. Charan Singh	Connaught Place	26-2-86
5. Madan Lal Jorwal	Indore	Feb. 84
6. Jethu Singh	Chartola	11-6-83
7. Mrs. Shyam Kaur	Defence Colony	Dec. 87
8. Mrs. Joginder Kaur	Safdarjung Enclave	Dec. 87
9. Hanuman Prasad Meena	Kolihaan Nagar	10-11-86
10. Ashwani Kumar	Safdarjung Enclave	10-3-86
<b>Driver</b>		
1. Vijender Singh	Regional Office	14-5-86

## ANNEXURE 'B'

Names of the members who have not been confirmed from the date of first appointment

## Messengers :

Name	Present Branch	Date of first appointment	Date of confirmation
1. T. Paul Mary	Pt. Street	30-8-84	June 89
2. Ramesh Chand	Zonal Office	13-8-84	-do-
3. Ram Niwas	R.K. Puram	20-9-84	-do-
4. Dharmendra	Naraina	17-9-84	-do-

5. Inderjeet Singu	STC	19-9-84	June, 89
6. Ashok Kumar	Rajouri Garden	24-9-84	-do-
7. Prem Pal Singh	Daryaganj	27-9-84	-do-
8. Suresh Manjhi	Karol Bagh	27-12-84	-do-
9. Raj Bir Singh	Roop Nagar	29-10-84	-do-
10. Ram Narain Jha	Karol Bagh	16-8-84	-do-
11. Suankar Lal	Roop Nagar	25-10-84	-do-
12. Suraj Bali	Golf Links	26-11-84	-do-
13. Jaswant Singh	S. Enclave	7-11-84	-do-
14. S.S. Negi	Delhi Cantt	27-11-84	-do-
15. Ajit Singh	Foreign Exchange	21-8-85	July 89
16. Gopal Singh	Janpath	5-7-82	26-12-88
17. Suraj Bhan	Jaipur	20-12-83	31-1-89
18. Sunil Kumar	Ajmer	1-6-85	June 89
19. R.S. Yadav	Jaipur	28-10-85	-do-
20. K.C. Chaudhary	Jaipur	17-12-85	-do-
21. Amar Singh	Jabalpur	4-4-83	-do-
22. Purshottam Bairagi	Ujjain	Dec. 85	-do-
23. Rajesh Raikwar	Gwalior	Dec. 85	-do-
24. Suresh S. Hardyalji	Indore	Dec. 85	-do-
25. Brij Lal	Jabalpur	Dec. 85	-do-
<b>Drivers</b>			
1. Jagdish Chand	S. Enclave	1-5-86	Feb. 89
2. Sri Lal	Pusa Road	28-4-86	-do-
3. Jai Bhagwan Singh	Janpath	11-7-86	-do-
4. Om Dutt	Regional Office	9-10-86	20-2-89
5. S.V. Srinivasan	Karol Bagh	1-4-85	21-6-86

नई दिल्ली, 8 अप्रैल, 1993

AND

का.आ. 802:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार अलाहाबाद बैंक के प्रबन्धतन्त्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-4-1993 को प्राप्त हुआ था।

The Dy. General Manager,  
Allahabad Bank,  
Hazaratganj, Lucknow.

## AWARD

1. The Central Government, Ministry of Labour, vide its Notification No. L-12012/280/84-D.II(A) dated 19-6-85 has referred the following dispute for adjudication to this Tribunal:—

Whether the action of the management of Allahabad Bank in relation to their Regional Office at Varanasi in utilising the services of Sri Jai Prakash w.c.f. 15-3-82 to 31-5-83 for driving the Bank's Jeep and terminating his services w.c.f. 31-5-83 is justified? If not, to what relief is the workman concerned entitled?

2. The instant case is lingering since 20-7-92 for want of affidavit evidence from the side of the workman. No affidavit evidence in the case has been filed by the workman nor he ever attended the proceedings of the case. Similarly on 12-3-93 neither his authorised representative nor the workman appeared in the case. Thus from the above it appears that neither the workman nor his auth. representative is interested in prosecuting the case.

3. In the circumstances of the case, a no claim award is given against the workman.

ARJAN DEV, Presiding Officer

नई दिल्ली 8 अप्रैल, 1993

का.आ. 803:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबन्धतन्त्र के संबद्ध नियोजकों और

[संख्या एल-12012/280/84-डी-2(ए)]

वी.के. वेणुगोपालन, डीस्क अधिकारी

New Delhi, the 8th April, 1993

S.O. 802:—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Allahabad Bank and their workmen, which was received by the Central Government on 7-4-1993

[No. L-12012/280/84-D.II(A)]

V. K. VENUGOPALAN, Desk Officer

## ANNEXURE

BEFORE SRI ARJAN DEV, PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,  
PANDU NAGAR, DEOKI PALACE ROAD, KANPUR

Industrial Dispute No. 250 of 1983

In the matter of dispute between:

Sri Jai Prakash,  
C/o Hindu Tea Stall,  
House No. 30/36 Bari Mardhaiya,  
Varanasi.



उनके कर्मचारों के बीच, प्रबंध में निहित औद्योगिक विवाद में औद्योगिक अधिधारण, यात्रा के पत्रपत्र को प्रकाशित करने हैं, जो केन्द्रीय सरकार को 7-4-1993 को प्राप्त हुआ था।

[संख्या एन-12011/89-90-आई आर बी-2]

वी.के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 8th April, 1993

S.O. 803.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Goa as shown in the Annexure in the Industrial Dispute between the employees in relation to the management of Bank of Maharashtra and their workmen, which was received by the Central Government on 7-4-1993.

[No. L-12011/89-90-IR(B.II)]

V. K. VENUGOPALAN, Desk Officer

**ANNEXURE  
IN THE INDUSTRIAL TRIBUNAL, GOVERNMENT OF  
GOA AT PANAJI**

(BEFORE SHRI M. A. DHAVALE, HON'BLE PRESIDING  
OFFICER)

Ref. No. IT/18/91

Workmen

... Workmen/Party I

Vs.

M/s. Bank of Maharashtra,  
Subhash Road, Ratnagiri,  
Kolhapur.

... Employer/Party II

Workmen represented by Shri D. R. Shirodkar.

Employer represented by Shri V. S. Deshpande.

PANAJI: DATED: 20-3-1993

**AWARD**

In exercise of the powers conferred by clause (d) of sub-section (1) and Sub-section (2A) of section 10 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government has referred the following issues for adjudication by this Tribunal:

"Whether the Bank of Maharashtra Karmachari Sangh, Kolhapur for their employees working in Bank of Maharashtra, Margao branch, Goa, is justified in demanding wages at the rate of overtime for working on 24-12-1987, holiday declared under Negotiable Instrument Act for sudden demise of Shri M. G. Ramachandran, the then Chief Minister of Tamil Nadu? If so, what relief workmen are entitled to?"

2. On receipt of this reference, a case at No. IT/18/91 was registered, and notices were served upon both the parties in which they appeared and submitted their pleadings. The General Secretary of the Bank of Maharashtra, Karmachari Sangh, Kolhapur, has filed a Statement of Claim (Exb. 4) wherein it has been averred thus:—

3. That Party 2—Bank of Maharashtra, is a Nationalised Bank having its H.O. at 1501, Lokmanya, Shivajinagar-Pune. The service conditions of the Bank employees are governed by Sastri/Desai Awards and various B. B. Settlements modified from time to time; and Holidays declared under Negotiable Instrument Act. That party 2—Bank (hereinafter called as the Bank) through its Regional Office at Ratnagiri under its letter dated 12-1-88 refused to pay overtime wages to the employees of Margao Goa branch who had worked on 24th December, 1987 in the pretext of Holiday not declared under Negotiable Instrument Act. However on the said date i.e. 24-12-87, all other branches in the State of Goa had observed a holiday. Thereafter, the Bank supplied a copy of Government Notification No. 2-1-87/GA&C dated 21-12-87 which was then issued, communicated/served to all public sector undertakings such as Bank's LIC etc. All establishments in the State of Goa remained closed and the working of Local

clearing houses was also suspended on that date. Thereafter, party 2—Bank, through its Regional Office took a stand that no employee of any branch in Goa had worked on the declared Holiday on 24-12-87. This expression in the estimate of the employees was an afterthought. It was then informed to the Union under letter dated 11-7-88. Thereafter, the employees of Margao branch were issued a certificate showing that they had worked on 24-12-87. During conciliation, Bank put forward another theory of not having received the message of Holiday, which stand was totally false. Finally, it has been stated that it was surprising to note that the Branch Manager of Margao branch was not aware of the holiday, which was observed in all establishments in Goa on 24-12-87. Hence, the Union has prayed that the employees in Margao Branch who had worked on 24-12-87, which was a declared Holiday, should be paid overtime wages for their work and other incidental reliefs.

4. Party 2—Bank of Maharashtra, by its Written Statement at Exb. 6 resisted the workmen's claim contending inter alia as follows:

The Government of Goa communicated declaration of holiday on 24-12-87 at 1.00 P.M. to the State Bank of India, Panaji Branch. A holiday was declared on account of the said demise of the death of Hon'ble Chief Minister of Tamil Nadu, Mr. M. G. Ramachandran. This communication of declaration of holiday was not received by the Branch Manager, Margao Branch on 24-12-87 itself, and hence, the Bank of Maharashtra participated in the second clearing also. Hence, the branch working remained continued on 24-12-87 as regular working day. The branch manager at Margao had a reason to believe that the information about the declaration of holiday under Negotiable Instrument Act was not communicated to the State Bank of India, which conducts the clearing house and since all the Banks participated in the second clearing it cannot be said that even after the receipt of the information about the declaration of holiday, the Branch Manager purposefully continued the working as a normal day. Party I, has produced a xerox copy of the guidelines received from I.B.A. bearing No. PD/Set/39 dated 15-10-79 on the issue of overtime. Under the said guidelines, given by I.B.A., it is made clear that declaration of an unforeseen holiday cannot have retro-active effect. Moreover, the services of the employees who may have worked for sometime before the receipt of information about the holiday, cannot be taken to have requisitioned by the Banks for doing overtime work. If, however, any employee was required to work after the receipt of information, that a holiday had been declared, it would, of course, be entitled for overtime for the work so done. It has been contended that the said event like the death of the National Leader, namely, Mr. M. G. Ramachandran, should not be allowed to be an occasion for unwarranted gain for a section of the society. From the circumstances, it has been contended that the Branch Manager at Margao had a reason to believe that no such information about declaration of holiday was received on 24-12-87 as the second clearing was over and all Banks had participated in the second clearing. If the State Bank of India at Margao had an information about holiday on 24-12-87, it could not have conducted second clearing. Since the Branch Manager at Margao did not receive information about holiday on 24-12-87, he allowed the working to be continued as if it was a working day. Hence, it has been contended that the claim made by the Union is not legal and justified and hence the same deserves to be dismissed.

5. Thereafter, the Union filed a Rejoinder (Exb. 7) wherein they controverted all the material contentions of party 2—Bank and reiterated their claim made in Exb. 4.

6. On these pleadings, I framed the following issues at Exb. 8:

1. Does Party No. I employees prove that they are entitled to overtime wages for the work done by them on 24-12-87 which was declared a holiday under Negotiable Instrument Act for the sudden demise of Shri M. G. Ramachandran, the then Chief Minister of Tamil Nadu?
2. Does Party No. II prove that its branch Manager at Margao had not received the information of the declaration of holiday on 24th December, 1987 and

hence the staff continued to work as a regular working day?

3. Whether Party I is entitled to any relief?
4. What award or order?

My findings on the above issues are as follows for the reasons stated below:

1. Yes, after 1.30 p.m. on 24th December, 1987.
2. In the Negative.
3. As stated in para 14.
4. As per final order below:

#### REASONS

8. The respective contentions of the parties of this dispute has been stated in the opening paragraphs of the judgment, which need no further repetition. How, on behalf of the Union, two witnesses viz. Shri S. V. Bhate, a clerk from Panaji Branch, and Shri V. P. Raiturkar, serving in the Margao Branch, have been examined at Exb. 9 and 10 and the Union has also produced some documents. Significantly, no oral evidence has been led on behalf of party 2—Bank, and instead, it has produced a few relevant documents. Now, some of the facts, which are either admitted, or which can otherwise be taken as duly approved, need to be stated in the beginning.

9. This claim for overtime wages has been preferred by the members of the staff who were serving in the Margao Branch of Bank of Maharashtra in the year 1987. It is a common ground that 24th December, 1987 was declared a Holiday under the Negotiable Instrument Act by the Government of Goa, and hence all Banking establishments in the State of Goa were ordered to be closed on receipt of the declaration of the Holiday. The notification issued by the Government in this behalf has been produced at Exb. 12, which clearly shows that it was received at 1.00 p.m. on 24th December, 1987 at Panaji Branch of Bank of Maharashtra. Thereafter, it is the claim of the Union that one of its witnesses by name Shri Bhate, sent a telephonic message of the Branch Manager of Bank of Maharashtra at Margao and informed him that a Holiday was declared on 24th December, 1987. Although, this information was received by the Branch Manager, still it is the claim of the Union that he did not close the business in the Bank and instead, the second clearing was also over and all the members of the staff worked till the end of the day, without availing of any Holiday. The Union has produced one certificate (Exb. 14) showing that all the ten members in the branch at Margao worked till 5.30 p.m. and two of them till 6.00 p.m. This certificate has been issued by the Branch Manager of Margao Branch, and it clearly shows that all the members of the staff continued to work on 24th December, 1987 without availing of concession of a Declared Holiday. Hence, the Union made a claim for overtime wages for the work done after the receipt of the information about the declaration of Holiday on 24th December, 1987. They first moved the Regional Office at Ratnagiri. However, he rejected the Union's claim by his letter dated 12th January, 1988 which is at Exb. 11. In this letter, the Regional Manager informed as follows:

"24th December, 1987 was not declared as Holiday under the Negotiable Instrument Act and hence the question of payment of Overtime to staff members does not arise."

Now, the above referred recitals in Exb. 11 are not inconsonance with the real state of affairs. 24th December, 1987 was declared a Holiday under the Negotiable Instrument Act by the Government of Goa as can be seen from Exb. 12, which is a notification issued under the signature of the Under Secretary (GA) of the Government of Goa. It is dated 24th December, 1987 and was in fact received in the Margao Branch at 1.00 p.m. as can be seen from the endorsement made on top of Exb. 12. In spite of this notification, it is really unconceivable as to how the Regional Manager replied in Exb. 11 that 24th December, 1987 was not declared a Holiday under the Negotiable Instrument Act. Thus, it is evident that the Regional Manager was not justified in rejecting the Union's claim by informing the Union that a Holiday was not declared under the Negotiable Instrument Act.

11. Thereafter, the evidence on record disclose that the Union again pressed its demand to which the Regional Manager, Ratnagiri sent a reply dated 23rd June, 1988. It is at Exb. 13. In this reply, the Regional Manager informed thus:

"Ref.—Holiday declared on 24th December, 1987."

We request reference to the above subject and advise that the question of paying overtime to the staff does not arise as no employee was required to work after receipt of the information that the holiday has been declared. A reference to this Central Office circular No. AX1/ST/95/79 dated 23rd October, 1979 may be made in this regard for future guidance.

12. Thus, reading the above recitals at Exb. 13, it is evident that the Bank rejected the Union's claim for OT only on the ground that no members of the staff was required to work on 24th December, 1987 after the receipt of the information about the declaration of Holiday. In view of this state of affairs, the crux of the whole dispute lies in finding out whether the members of the staff worked after the receipt of an information about the declaration of Holiday on 24th December, 1987.

13. Now, in order to prove this moot question the union has relied upon the oral evidence of two witnesses. However, significantly, the Bank did not examine even the Branch Manager, who was then serving at Margao Branch. Non-examination of the material witnesses on the part of party 2 would clearly lead me to draw an adverse inference against the Bank. The position of law on this point is well-settled. In substance, it lays down that the Court is justified in drawing an adverse inference against a party which has omitted to examine the material witnesses who are in the know of things, which are necessary for determining any fact in issue.

14. The first witness examined by the Union is Mr. Bhate who was serving as a clerk in the Panaji Branch of Bank of Maharashtra. He has stated that on 24th December, 1987, a holiday was declared on account of the sad demise of Mr. M. G. Ramachandran, the Hon'ble Chief Minister of Tamil Nadu. On this day, a notification about the declaration of holiday was received at 1.00 p.m. (as can be seen from Exb. 12). As soon as this notification was received, the Branch at Panaji was closed at 1.30 p.m. However, the President of the Union was at Margao, and hence Mr. Bhate states that he telephoned him about and informed him about the notification. He thereafter states:

"I also informed the Branch Manager at Margao."

This is in substance evidence of Mr. Bhate on the material point. He has been very moderately cross-examined by Shri Deshpande for the Bank. In his cross-examination, he has stated that the clerk who had gone to the Clearing House had returned with this information. He telephoned from public booth to the Margao Branch and he again reaffirmed his say by asserting that he also telephoned the Branch Manager at Margao. Nothing has been brought on record in the cross examination of Mr. Bhate which would enable me to disbelieve his assertion on the material point. Moreover, whatever has been stated by Shri Bhate, it is borne by the documentary evidence at Exb. 12 which is a notification received on 24th December, 1987 at 1.00 p.m.

15. Then, there is the evidence of Shri V. P. Raiturkar. At the material time, he was serving at Margao Branch. He has stated: "At about 1.00 p.m., I received a telephonic call from Panjim Branch in which I was informed that a holiday was declared on 24th under the Negotiable Instrument Act. I then contacted the Branch Manager and informed him about the holiday and requested him to close the Bank. On that day, the first clearing was made. The Branch Manager did not close the Bank till 5.00 p.m. although, he was informed about the holiday. We were forced to work till 5.30 p.m. to 6.00 p.m. on that day. The second clearing was also done at about 3 O'clock". After saying as above, he has stated about the representation which the Union made to the Regional Manager for claiming OT. This witness has also been very moderately cross-examined by Shri Deshpande wherein, he has again re-affirmed his assertion made in examination-in-chief. He has stated thus: "Bhate had telephoned me from Panaji. The phone was taken by the Branch Manager Mr. Alker, who told me that he had received a telephone call from Mr. Bhate. Mr. Bhate had also informed the Branch

Manager about the Holiday". Thus, in his cross-examination, it has been brought on record that initially a telephone message was received by the Branch Manager, and this is perfectly true, in as much as, the official phone is generally kept in the Manager's cabin. Thus, it was but natural for the Branch Manager to receive the telephone call made by Mr. Bhat. In his cross-examination, Shri Raiturkar has again re-affirmed his say that Mr. Bhat had informed the Branch Manager about the Holiday. Thus, reading these recitals, in the cross-examination of Shri Raiturkar, it is abundantly clear that the Branch Manager had received an information about the declaration of holiday at about 1.00 p.m. or so, which information was communicated by Shri Bhat from Panaji. Now, if at all it is the contention of the Bank that the Branch Manager at Margao had not received the information about declaration of holiday on that day till 5.00 p.m., then, it was incumbent upon the Bank to examine Shri Akerkar who was then the Branch Manager. However, as observed earlier, the Bank did not venture to examine Shri Akerkar for not valid reasons, and hence as concluded in the foregoing paragraphs, I am justified in drawing an adverse against the Bank's contention. I, therefore, hold that the Bank had not succeeded in proving that the information about the declaration of Holiday was not received by the Branch Manager on 24th December, 1987, and hence the staff continued to work as a regular working day. On the other hand, despite the receipt of an information from Panaji Branch, the Branch Manager seems to have directed the members of the staff to continue working till the close of the day. This is evident from the certificate issued by the Branch Manager, which has been produced at Exb. 14, which clearly shows that all ten members of the staff worked on this day till 5.30 p.m., and two of them at serial no. 8 and 9, till 6.00 p.m. It is on the established state of affairs, I now proceed to consider whether the union's claim for OT after 1.00 p.m. on 24th December, 1987 can possibly be decreed.

16. Now, even Party 2—Bank, alongwith its Written Statement has filed one circular which has been marked at Exb. 6/A, and it clearly resolves the dispute between the parties. Hence, it is necessary to reproduce the said circular ad-verbitum. It reads thus :

Ref. No. AXI/ST/96/79  
23rd October, 1979

#### STAFF & I. R.

All Branches/Offices of the Bank.

Dear Sir,

Re: Overtime on days declared as holidays, at late stage, due to the death of the National Leader.

Please refer to our circular No. AXI/ST/91/79 dated 8th October, 1979.

The Indian Banks' Association has now clarified that the services of the employees who may have worked for some time before the receipt of the information about holiday cannot be taken to have been requisitioned by the banks for doing overtime work. If, however, any employee was required to work after the receipt of the intimation that the holiday has been declared, he would, of course, be entitled to overtime for work so done.

We request you to take a note of above. We are also enclosing a true copy of the circular no. PD/SET/39 dated 15th October 1979 issued by the Indian Banks' Association in this behalf.

Yours faithfully,  
Sd/-

Divisional Manager  
Staff & I. R.

1. The copy of the circular dated 15-10-79 issued by the Indian Bank's Association is also in Exb. 6/A and the relevant portion of its needs to be reproduced. It reads thus :—

#### INDIAN BANKS ASSOCIATION

Stadium House, Block 3, Veer Nariman Road, Bombay 400020.

Ref. No. PD/Set/30

All Members of the Association.

15th October, 1979.

Dear Sirs,

Re: Overtime on days declared as holidays at a late stage, due to the death of a National Leader.

1. \* \* \* \* \*

2. \* \* \* \* \*

3. Declaration of an unforeseen holiday cannot have retro-active effect. Moreover, services of the employees who may have worked for some time before the receipt of the information about holiday, cannot be taken to have been requisitioned by the banks for doing overtime work. If, however, any employee was "required to work" after the receipt of the intimation that a holiday had been declared, he would, of course, be entitled to overtime for work so done.

4. \* \* \* \* \*

Yours faithfully,  
Sd/-

Personnel Adviser

Now, as I said earlier, this circular has been produced by the Bank itself and as such, the Bank has relied upon the same. Now, at the outset, it will have not be stated that the first part of this circular favours the Bank, and support its contention that the staff is not entitled to overtime wages for work done before the receipt of information. However, the second part of the circular supports the Union's claim in as much as in the present case, the staff members i.e. employees, were required to work after (underlining is mine for emphasizing) the receipt of the information about the declaration of holiday. Hence, the circular states that in such event of course, the staff is entitled to overtime for the work so done.

18. Thus, considering the provisions in the above referred circular, I hold that in spite of the receipt of the information put the declaration of holiday at about 1.30 p.m., the Branch Manager did not close the Banks business and instead, as urged by the Union, the employees were directed to work till the end of the day and hence the Union's claim for overtime from 1.30 p.m. onwards deserves to be decreed. I, therefore, answer the issues accordingly.

15. Now, before parting with the judgment, a reference will have to be made in the last submission made on behalf of the Union in para no. 4 in the written arguments at Exb. 16, wherein, it has been contended that this Tribunal may be pleased to direct the Bank to treat the absence of the Union's representative, Shri D. R. Shirodkar in the Bank as 'On Duty', on the dates, he appeared in this Tribunal in the present reference. To support this claim, a reference has also been made to para nos. 471 or 417 of Sastri Awards. However, the claim made by the Union in this behalf is not within the scope or compass of the reference made by the Government, and hence I reject the same.

19. I, therefore, pass the following order :—

#### ORDER

It is hereby ordered that the Bank of Maharashtra—Margao Branch shall pay, within a period of two months from the date of this award, overtime wages to the members of the staff working in its Branch at Margao, and whose names appear in Exb. 14, for the work done by them after 1.30 p.m. onwards, on 24-12-87 which was declared a holiday under the Negotiable Instrument Act on account of the sad demise of Shri M. G. Ramchandran, Hon'. Chief Minister of Tamil Nadu.

No order as to cost.

Central Government be informed of this Award.

M. A. DHAVALÉ, Presiding Officer

PANAJI, Dated : 20-3-1993.

नई दिल्ली, 29 मार्च, 1993

का.सा. 804.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हरिपुर कोलियरी आफ मैसर्स ई.सी.एन. के प्रबन्धनत्व के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निष्पट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-3-93 को प्राप्त हुआ था।

[संख्या एल-19012/15/84-डी-IV(बी)]

राजालाल, डेस्क अधिकारी

New Delhi, the 29th March, 1993

## NOTIFICATION

S.O. 804.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Haripur Colliery of M/s. E.C. Ltd. and their workmen, which was received by the Central Government on 29-3-93.

[No. L-19012/15/84-D.IV (B)]

RAJA LAL, Desk Officer

## ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL, ASANSOL

Reference No. 4/93

## PRESENT :

Shri N. K. Saha,  
Presiding Officer.

## PARTIES :

Employers in relation to the Management of Haripur Colliery of M/s. E.C. Ltd.

## AND

Their Workmen

## APPEARANCES :

For the Employers.—Shri P. Banerjee, Advocate.

For the Workmen.—Shri C. S. Banerjee, Joint General Secretary of the Union.

INDUSTRY : Coal.

STATE : West Bengal.

Dated, the 15th March, 1993

## AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 referred the following dispute to the Central Govt. Industrial Tribunal, Calcutta for adjudication vide Ministry's Order No. L-19012(15)/84-D.IV(B) dated 19-12-84. Subsequently the dispute has been transferred to this Tribunal for adjudication by the Govt. of India, Ministry of Labour vide Order No. S-11025/3/92-IR(C.II) dated the 27th August, 1992.

## SCHEDULE

"Whether the action of the management of Haripur Colliery of Eastern Coalfields Ltd., in denying employment to Smt. Baralakshmi Mejhian, Smt. Chotalakhi Mejhian, Shri Bhagirath Bouri and Munihal Bouri and in dismissing Smt. Kaha Mejhian a permanent wagon loader with effect from 28-6-80, is justified? If not, to what relief are the workmen concerned entitled?"

2. During the pendency of the case, to-day (15-3-93) Shri C. S. Banerjee, Joint General Secretary of the concerned

union filed a memorandum of settlement which has been settled out of Court. He also prays for passing an Award in terms of the settlement.

3. I have gone through the terms of settlement and I find them quite fair and reasonable. I accept it and pass an award accordingly. The memorandum of settlement shall form part of the award.

N. K. SAHA, Presiding Officer.

Encls : Terms of Settlement.

BEFORE THE HON'BLE PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL

ASANSOL

Reference No. 4 of 1993

## PARTIES :

Employer in relation to the Management of Haripur Colliery of M/s. E.C. Limited, P.O. Haripur, Dist. Burdwan.

## AND

Their workmen, represented by Jt. General Secretary, Colliery Mazdoor Union, INTUC, Cinema Road, Ukhra, Dist. Burdwan.

## JOINT PETITION OF COMPROMISE

Both the parties above named most respectfully beg to submit as under :—

1. That the instant matter is pending before the Hon'ble Tribunal and the matter has not yet been heard.

2. That in the meantime both the parties mutually discussed the instant matter and have arrived at a settlement on the following terms :—

## TERMS OF SETTLEMENT

- (a) That Smt. Kaha Majhian, Bagon Loader and Smt. Bara Laxhi Majhian, Casual Wagon Loader will be re-employed within one month from the date the Hon'ble Tribunal passes an Award in terms of this settlement provided the two workmen herein concerned are properly identified by the Union before the employers and provided the two workmen furnish Indemnity Bond supporting their identification by two permanent workmen employed at the colliery.
- (b) That for the entire period from 28-6-80 in respect of Smt. Kaha Majhian and from 30-4-77 in respect of Smt. Bara Laxhi Majhian to the date of their re-employment as per the settlement, the Union of the workmen concerned shall have no claim for any back wages, allowance or any other benefit whatsoever.
- (c) That both the workmen concerned will be posted on their re-employment as per the settlement in nearby Collieries in other Area where manual wagon loading job is available.
- (d) That the instant matter the other three workmen named Sri Bhagirath Bouri, Smt. Chota Laxhi Mejhian and Sri Munihal Bouri all are Casual Wagon Loaders, are working in terms of settlement already filed before the Hon'ble Tribunal, Calcutta, earlier.
- (e) That by this settlement will take effect as from the date the Hon'ble Tribunal passes an Award in terms of this settlement.
- (f) That by this settlement the instant matter and any matter arising out of it stand fully and finally settled.

4. Both the parties pray the Hon'ble Tribunal may be pleased to accept the settlement as fair and proper and may further be pleased to pass an award in terms of

this settlement. And for this act of kindness both the parties as in duty bound shall ever pray

This signed on \_\_\_\_\_ day of February, 1993  
FOR & ON BEHALF OF THE : \_\_\_\_\_ On behalf of the  
WORKMEN UNION \_\_\_\_\_ employees  
Sd, Illegible

Sd/ (Illegible)

Dy. C.P.M.

Kenda Area

नई दिल्ली, 29 मार्च, 1993

का.प्र. 805.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मस्ती कोलियरी आफ डब्ल्यू. सी. लि. के प्रबन्धनत्व के संबद्ध निधोजकों और उनके कार्यकारी के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचवट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-3-93 को प्राप्त हुआ था।

[संख्या एन्-21011/7/87-डी-III(बी)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 29th March, 1993

S.O. 805.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Nagpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Sasti Colliery of W.C. Ltd. and their workmen which was received by the Central Government on 29-3-1993.

[No. L-21011/7/87-D.III (B)]

RAJA LAL, Desk Officer

#### ANNEXURE

#### BEFORE THE INDUSTRIAL TRIBUNAL, NAGPUR

Presided by Shri S. I. Deshmukh, B.A., J.L.B.

Reference No (GGT) No. 1 of 1987

#### ADJUDICATION BETWEEN

The management of Ballarpur Colliery of W.C. Limited, Ballarpur—Party No. 1.

AND

Their workmen—Party No. 2.

In the matter of reference under Section 10(1)(2-A)(d) of the Industrial Disputes Act, 1947

#### APPEARANCES :

Shri S. C. Mehadia and Shri Ghare, Advocate for Party No. 1.

Shri S. R. Pendre, Representative—for Party No. 2.

#### AWARD

(Passed on 20th October, 1992)

This is a Reference made by the Central Government under Section 10(1)(2-A)(d) of the Industrial Disputes Act, 1947.

2. The parties were noticed. The workman/party No. 2 filed his statement of claim vide Exh. 5. The workman was represented by Shri S. R. Pendre, General Secretary, Lal Zenda Coal Mines Mazdoor Union (CITU), Chandrapur. Said Shri S. R. Pendre at present is not the General Secretary of the said union. The present President of that union was avoiding to represent the cause of the workman before the Tribunal. Shri S. R. Pendre has now become the General

Secretary of Lal Bawata Koyala Kamgar Union. The workman has given his representation to Shri Pendre. This Court vide order dated 16-8-1991 (Exh. 23) has permitted the workmen to be represented in this Reference by Shri S. R. Pendre, General Secretary of Lal Bawata Koyala Kamgar Union. The workman has filed another statement of claim vide Exh. 24 on 8-10-1991.

3. In his statement of claim the workman has submitted as under :

Present workman Bhaskar Choudhari and other workers namely, R. S. Sonwalkar, P. Ramaswami and Doraswami were working at Dhoptala Open Cast Mine, Sasti since 1983. These workers were paid less wages till 30-12-1985 and with effect from 1-1-1986 they were terminated. Therefore, these workers requested the Manager, Dhoptala Open Cast Mine, Sasti and the General Manager, Wardha Valley Area, Chandrapur to take them on work. However, they did not pay any attention to their request. Therefore, the workers on 31-1-1986 approached the Union and thereafter on 6-2-1986 dispute was raised before the Assistant Commissioner of Labour (Central), Chandrapur through the Union. During the pendency of the dispute S/Shri Sonwalkar, P. Ramaswami and Doraswami were given work by the management. However, the present workman Bhaskar Choudhari was not given any work. He was terminated on 30-12-85.

4. It is submitted by Shri Bhaskar Choudhari that from September 1983 to August 1984 he had worked for 279 days. He had also worked from January 1984 to December 1984 for 240 days. However, before terminating his services there was no compliance of Section 25-F of the I. D. Act. According to Bhaskar Choudhari he was continuously working with the party No. 1 and his case is covered by Section 25-B of the I. D. Act. Since the management has not complied with the provisions of Section 25-F of the I. D. Act, his termination is illegal.

5. It is submitted that Bhaskar Choudhari is a poor man. Since he is out of employment from 1986 it is difficult for him to maintain his family. It is, therefore, prayed that he be reinstated with back wages and other benefits.

6. The management/Party No. 1 has filed their written statement at Exh. 6. Admittedly, the workmen in question were working in Dhoptala Open Cast Mine as casual workers on as and when required basis. They were being paid the salary as per Minimum Wages Act. Said workers have not been given work since 1-1-1986. It is submitted that all these workers were casual workers and they were provided work as and when required and hence there was no question of giving any notice to those workers. It is submitted that the said workers were no more required because the particular work of the casual nature was completed. It is submitted that the vacancies were notified to the Employment Exchange and the names of S/Shri Sonwalkar, P. Ramaswami and Doraswami were recommended by the Employment Exchange but the name of Bhaskar Choudhari was not recommended for the reasons best known to them. The persons whose names were recommended by the Employment Exchange were given employment after interview, medical fitness test etc.

7. It is denied that Bhaskar Choudhari worked as Filter Helper/Electrical Helper in Sub-Area No. 4 at Dhoptala Open Cast Mine from September 1983 to 31-12-1985. Admittedly, Bhaskar Choudhari had worked for about 240 days in 1984. It is denied that the name of Bhaskar Choudhari was enrolled on the muster-roll of Dhoptala Open Cast Mine. It is denied that Bhaskar Choudhari is without any employment and is unable to maintain his family.

8. It is submitted that Bhaskar Choudhari was a casual employee. He had worked for only 96 days during the period of twelve months preceding his termination. The certified Standing Orders are not applicable to the workman. The provisions of Section 25-B and 25-F of the I. D. Act are not applicable to the workman Bhaskar Choudhari. In short, it is submitted that the claim made by the workman/party No. 2 is without any substance and the same is liable to be rejected.

9. The Central Government has referred the dispute as per Schedule, which reads as under :—

"Whether the action of the management of Sasti Colliery of Western Coalfields Ltd. P.O. Sasti Distr. Chandrapur (MS) is justified in terminating the services of Shri Bhaskar Choudhari w.e.f. 1-1-1986? If not, what relief is the concerned entitled to?"

10. Heard Shri R. S. Pendre, General Secretary of IAI Bawata Koyala Kamgar Union, for the workman and Shri Ghare, Advocate for the management. Considering the pleadings, evidence and submissions made before me, I answer the Reference in the affirmative. Therefore, workman Bhaskar Choudhari is not entitled to any relief.

#### Reasons for my findings

11. The party No. 2 Bhaskar Choudhari examined himself as Exh. 32, whereas on behalf of the management/party No. 1 two witnesses namely, Shri P. S. Raju, Executive Engineer and Shri Shankar Laxman Joshi, Dy. Personnel Manager have been examined at Exh. 35 and 36 respectively. The evidence on Bhaskar Choudhari in short is that he was appointed as Fitter Helper in September 1983 and he worked continuously till December 1985. According to him he was getting less wages than the wages paid to the permanent employees. He was doing the same work which the permanent workers were doing. Bhaskar Choudhari has stated that in 1985 he had requested the management to make him permanent but instead of making him permanent he was discontinued from service w.e.f. 1-1-1986. It is disclosed from the evidence of witnesses examined on behalf of the management that Bhaskar Choudhari was engaged as a casual labour and he was required to do the work of manual transportation of pipes, pumps etc., laying of overhead lines, digging of pits etc. It is further seen from the evidence of Shri P. S. Raju and Shri Shankar Joshi that Bhaskar Choudhari was not engaged for doing the work of permanent nature. According to these witnesses, for appointing Helpers qualification required was certificate issued by Industrial Training Institute. Shri Shankar Joshi Exh. 36 has stated on oath that the employee appointed as a Helper must possess I.T.I. certificate and S.S.C. certificate. Bhaskar Choudhari never worked as Helper-II. On going through the entire evidence, I find that the workman Bhaskar Choudhari was not working as Fitter Helper. He has not placed any document on record to prove that he was appointed as a Fitter Helper. He has also not stated on oath that he holds a certificate issued by I.T.I. On the other hand, it is established on the basis of evidence of Shri P. S. Raju and Shri Shankar Joshi that Bhaskar Choudhari was working as a casual worker.

12. There is no dispute that Bhaskar Choudhari was working at Dhoptala Open Cast Mine since 1983 but as already stated above he was not working as a Fitter Helper. He was working as a casual worker. It is not disputed that Bhaskar Choudhari worked at Dhoptala Open Cast Mine till 30-12-1985 and thereafter from 1-1-1986 he was not given any work. It is not disputed that Bhaskar Choudhari had worked for 279 days from September 1983 till August 1984. He had also worked for 240 days during the period from January 1984 till December 1984. However, he had worked for only 96 days during the period of twelve calendar months prior to his termination from 1-1-1986. Considering the fact that he had not worked for 240 days during the period of 12 calendar months prior to his termination, his case is not covered by Section 25-B of the I. D. Act. Consequently, the provisions of Section 25-F of the I. D. Act would not be applicable to the present case. In the instant case the management has not complied with the provisions of Section 25-F of the I. D. Act but it was not necessary for them to comply with the provisions of Section 25-F of the I. D. Act, as Bhaskar Choudhari had not worked for 240 days during the period of twelve calendar months prior to his termination. The party No. 2 has not adduced any evidence to prove that the work which he was doing at Dhoptala Open Cast Mine is still available. The management has submitted that the work of casual nature has been completed and therefore, services of casual workers were not required. Considering the facts and evidence on record, I find that there was no illegality in terminating the services of the workman party No. 2.

13. For the reasons stated above, I am of the view that the management is justified in terminating the services of

Bhaskar Choudhari with effect from 1-1-1986. Therefore, Bhaskar Choudhari is not entitled to any relief. Hence, the following Award is passed.

#### AWARD

The Reference is answered in the affirmative. The action of the management Party No. 1 is justified in terminating the services of party No. 2 Bhaskar Choudhari with effect from 1-1-1986. He is, therefore, not entitled to any relief. In the circumstances of the case there shall be no order as to costs.

Nagpur,

Dated : 20th October, 1992

(B. R. WALEKAR)

For Secretary.

S. J. DESHMUKH, Presiding Officer

नई दिल्ली, 29 मार्च, 1993

का.आ. 806.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एम.सी.सी.एल. के प्रबन्धनन्त के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचदश को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-3-93 को प्राप्त हुआ था।

[संख्या एन-22012/318/91-आईआर(सी-II)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 29th March, 1993

S.O. 806.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S.C.C. Ltd. and their workmen, which was received by the Central Government on 29-3-93.

[No. L-22012/318/91-IR(CII)]

RAJA LAL, Desk Officer

#### ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL-I AT HYDERABAD

PRESENT:

Sri Y. Venkatachalam, M.A., B.L., Chairman.  
Dated the Twenty Third day of February Nineteen  
Hundred Ninety Three  
I.D. No. 18 of 1992

BETWEEN:

General Secretary, S.M. & E.W. Union (HMS)  
PO: Srirampur, Dt. Adilabad  
(AP)—Petitioner

AND

The General Manager, M/s. S. C. Co. Ltd., P.:  
Srirampur, Dt. Adilabad  
(AP)—Respondent

APPEARANCES :

None for the petitioner.

M/s. K. Srinivasamurthy, G. Sudha & Krishna  
Kishore Babu, for the Management.

## AWARD

नई दिल्ली, 29 मार्च, 1993

This reference is referred by the Government of India, Ministry of Labour vide letter No. L-22012 (318)91-IR(C.II) dated 6-12-91 for adjudication of the dispute between the Management of S.C. Co. Ltd., Srirampur, Dt. Adilabad and their workmen with the following Annexure :

"Whether the action of the management of M/s. S.C. Co. Ltd., Srirampur, in denying to promote Sri E. Anandham, General Mazdoor, IK-1 Incline to the post of Helper Cat. II, after passing the test and interview is justified? If not, to what relief the workman is entitled to?"

2. The said reference is registered as I.D. No. 18 of 1992 and notices were sent to both sides. The Workman having received the notice did not file Claim's statement and he was set ex-parte. Subsequently this matter is posted for Counter and the respondent did not file the Counter but argued the matter. The arguments of the advocate for the respondent are heard. The learned advocate for the respondent argued that the workman also raised this dispute did not appear before this Tribunal having received the notice he did not care to either engage any advocate or file the claim's statement. Therefore it is absolutely clear that the workman was not interested in pursuing the matter or the workman might have received the advantages given by the management as sought for. In view of the above facts and circumstances it is a fit case nil award should be passed.

3. The point for consideration is

"Whether the action of the management of M/s. S.C. Co. Ltd., Srirampur, in denying to promote Sri E. Anandham, General Mazdoor, IK-1 Incline to the post of Helper Cat. II, after passing the test and interview is justified or not?"

4. It is absolutely clear that the workman did not appear before this Tribunal having received the notice. He did not engage an advocate or no Union leader appeared before this Tribunal on behalf of him and claim's statement was not filed and he was set ex-parte. When once workman is not interested in contesting the matter naturally the respondent did not file the Counter as there is no material on hand before the management. In view of the above facts and circumstances I am of the clear opinion that as rightly argued by the advocate for the respondent that there is no alternative for this Tribunal except to pass nil award.

5. In the result nil award is passed.

Dictated to the Stenographer and transcribed by him and corrected by me and given under my hand and Seal of this Tribunal on this the 23rd day of February, 1993.

Y. VENKATACHALAM, Chairman.  
Appendix of Evidence

Nil

INDUSTRIAL TRIBUNAL-I

का. प्रा. 807.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्रीय सरकार गवर्नर द्वारा 16-4-93 को उक्त नारीचक के अंतर्गत नियुक्त करती है, जिसको उक्त अधिनियम के अनुच्छेद-44 और 45 के विभाग जो पहले ही प्रवृत्त हो जा चुका है) और अनुच्छेद-5 और 6 (धारा-76 की उपधारा (1) और धारा-77, 78, 79 और 81 के विभाग जो पहले ही प्रवृत्त हो जा चुका है) के उपबन्ध उ.प्र. राज्य के निम्नलिखित क्षेत्र में प्रवृत्त होंगे, अर्थात्:—

राजस्व ग्राम—कनेहपुर, रोजनाई, परगना कनेहपुर रोजनाई, चिरौरा, परगना चिरौरा, विशायकपुर परगना—विशायकपुर, रनिया—परगना रनिया, सदावा—परगना दिशायकपुर, किराना विशायकपुर—परगना किराना विशायकपुर, खानचन्दपुर—परगना खानचन्दपुर तहसील अकबरपुर—जिला—आमरपुर देहात।

[संख्या एन-38013/6/93-एस.एस.-I]

जे. पी. शुक्ला, अवर सचिव

New Delhi, the 29th March, 1993

S.O. 807—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 16th April 1993 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI (except sub-section (1) of Section 76 and Section 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Uttar Pradesh namely:—

Revenue Village :

Fatehpur Roshnai, Pargana-Fatehpur Reshnai, Chairaura, Pargana-Chiraura, Vishayakpur, Pargana-Vishayakpur, Rania, Pargana-Rania, Sadhawa, Pargana-Vishayakpur, Kirana-Vishayakpur, Pargana-Kirana-Vishayakpur, Khan Chandpur, Pargana-Khan Chandpur, Falling in Tehsil-Akbarpur, District-Kanpur Dehat.

[No. S-38013/6/93-SS-I]

J. P. SHUKLA, Under Secy.

नई दिल्ली, 30 मार्च, 1993

का. प्रा. 808.—केंद्रीय सरकार कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम, 1952 (1952 का 19) की धारा 17 की उपधारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का. शा. 112 (क) दिनांक 24 मार्च, 1986 का अधिसूचना करते हुए यह निदेश देती है कि उक्त अधिनियम की धारा 17 की उपधारा (1) के खण्ड (ग) या खण्ड (ख) के अधीन छूट प्राप्त किसी

स्थापन के अथवा कर्मचारी भविष्य निधि स्कीम, 1952 के यथास्थिति पैरा 27 या पैरा 27-क के अधीन छूट प्राप्त किसी कर्मचारी या कर्मचारियों के वर्ग के संबंध में प्रत्येक नियोजक ऐसे स्थापन अथवा यथास्थिति में कर्मचारी या कर्मचारी वर्ग से संबंधित मासिक भविष्य निधि अभिदायों का अंतरण उस मास के समाप्त होने से 15 दिन के भीतर उस स्थापन के संबंध में सम्यक् रूप से गठित न्यासी बोर्ड को करेगा और उक्त न्यासी बोर्ड नियोजक से उक्त अभिदायों की प्राप्ति की तारीख से दो सप्ताह की अवधि के भीतर स्थापन अथवा यथास्थिति कर्मचारी या कर्मचारी वर्ग से संबंधित भविष्य निधि संचयन अर्थात् अभिदाय वृत्त और अन्य प्राप्तियों को किन्हीं बाध्यकर देनदारियों की कटौती करने के बाद निम्न व्यवस्था के अनुसार विनिहित करेगा अर्थात्:—

निवेश पैटर्न	निवेश की जाने वाली राशि का प्रतिशत
(i) (क) लोक ऋण अधिनियम, 1944 (1944 का 18) की धारा 2 में परिभाषित सरकारी प्रतिभूतियां, जो किसी भी राज्य सरकार द्वारा सृजित और जारी की गई हों,	पन्द्रह प्रतिशत
(ख) कोई अन्य हस्तांतरणीय प्रतिभूतियां जिनके मूल तथा व्याज को केन्द्रीय सरकार अथवा किसी राज्य सरकार द्वारा पूर्ण और बिना किसी शर्त के गारण्टी की गई हों।	
(ii) भारत सरकार, वित्त मंत्रालय, आर्थिक कार्य विभाग की दिनांक 30 जून, 1975 की अधिमूचना सं. एफ. 16(1)-पी. डी. 75 द्वारा आरम्भ की गई विशेष जमा योजना, जिसका वह दिनांक 12 जून, 1985 की अधिमूचना सं. एफ. 16(8)-पी. डी/84 द्वारा लागू की गई है।	मन्त्र प्रतिशत
(iii) बैंकों सहित सार्वजनिक क्षेत्र के वित्तीय संस्थानों के बॉण्ड/प्रतिभूतियां। पन्द्रह प्रतिशत।	

2. विशेष जमा योजना में निवेश करने समय निधि प्रशासित करने वाले प्राधिकारी की एक प्रमाण-पत्र जमा कार्यालय को देना होगा कि सरकार द्वारा निर्धारित निवेश प्रणाली का पालन किया गया है।

3. जिन मामलों में, 31 मार्च, 1993 तक लागू निवेश प्रणाली के अंतर्गत पहले से किए गए निवेशों की परिष्कृतता

पर कोई धन-राशि प्राप्त हो, उनमें ऐसी धन-राशि, अभिदायों निफासी की राशि को घटा कर एक अधिमूचना में निर्धारित नई निवेश-प्रणाली के अनुसार पुनः निवेश की जाएगी।

4. उक्त निवेश प्रणाली 1 अप्रैल, 1993 से लागू होगी।

[संख्या जी-27031/2/89-एस. एस.-II]

जे. पी. शर्मा, अवर सचिव

New Delhi, the 30th March, 1993

S.O. 808.—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), and in supersession of the notification of the Government of India, Ministry of Labour No. S.O. 112(E) dated 24th March, 1986, the Central Government hereby directs that every employer in relation to an establishment exempted under clause (a) or clause (b) of sub-section (i) of Section 17 of the said Act or in relation to any employee or class of employees exempted under paragraph 27, or as the case may be, paragraph 27A of the Employees' Provident Funds Scheme, 1952, shall transfer the monthly provident fund contributions in respect of the establishment or, as the case may be of the employee or class of employees within fifteen days of the close of the month to the Board of Trustees, duly constituted in respect of that establishment, and that the said Boards of Trustees shall invest every month within a period of two weeks from the date of receipt of the said contributions from the employer, the provident fund accumulations in respect of the establishment or as the case may be, of the employee, or class of employees that is to say, the contributions, interest and other receipts as reduced by any obligatory outgoings, in accordance with the following pattern, namely:—

Investment Pattern	Percentage of Amount to be Invested
(i) (a) Government Securities as defined in Section 2 of the Public Debt Act, 1944 (18 of 1944) created and issued by any State Government.	Fifteen
(b) Any other negotiable securities the principal whereof and interest whereon is fully and unconditionally guaranteed by the Central Government or any State Government.	Percent.
(ii) Special Deposit Scheme introduced by the notification of Government of India in the Ministry of Finance Department of Economic Affairs No. F. 16(1)-PD/75 dated the 30th June, 1975 as extended by Notification No. F.17(8)-PD/84 dated the 12th June, 1985.	Seventy Percent.
(iii) Bonds/Securities of public sector financial institutions including banks.	Fifteen Percent.



2. At the time of making an investment in the Special Deposit Scheme, the authority administering the fund shall furnish a certificate to the deposit office, that the investment pattern prescribed by the Government has been followed.

3. Where any moneys are received on the maturity of earlier investments made under the pattern in force upto 31st March, 1993 such moneys reduced by obligatory outgoings shall be reinvested in accordance with the new investment pattern prescribed in this notification.

4. The above pattern of investment shall come into force with effect from the 1st April, 1993.

[No. G-27031/2/89-SS-II]

J. P. SHUKLA, Under Secy.

नई दिल्ली, 30 मार्च, 1993

का.प्रा. 809.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मिल्ट्री फार्म पुरकाजी के प्रबन्धनत्व के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-3-93 को प्राप्त हुआ था।

[सं एल-14012/106/91-आई.आर. (डी.यू.) (Pt.)]  
के.वी.बी. उन्नी, डेस्क अधिकारी

New Delhi, the 30th March, 1993

S.O. 809.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Military Farm Purkazi and their workmen, which was received by the Central Government on 29-3-93.

[No. L-14012/106/91-IR(DU)(Pt.)]  
K. V. B. UNNY, Desk Officer

#### ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL NEW DELHI

#### NOTIFICATION

I.D. No. 79/92

In the matter of dispute between :

Shri Balbir Singh s/o Shri Ramsukh,  
Village Sethpura, P.O. Purkazi,  
Distt. Mujaffarnagar-251001.

Versus

Deputy Director,  
Military Farm,  
Central Command,  
Lucknow-226001.

#### APPEARANCES :

None—for the workman.

Shri K. L. Tyagi—for the Management.

#### AWARD

The Central Government in the Ministry of Labour vide its Order No. L-14012/106/91-I.R.(D.U.) dated 9-9-92 has 873 GI/93-7.

referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management of Military Farm, Purkazi in terminating the services of Shri Balbir Singh s/o Shri Ramsukh w.e.f. 1-02-86 is justified ? If not, what relief he is entitled to ?"

2. Registered A.D. Notice was sent to the workman but none appeared on behalf of the workman in support of this reference. It appears that the workman is not interested in pursuing in this dispute and as such no dispute exist between the parties and I, therefore, pass a no dispute Award in this case. Parties are left to bear their own costs.

Further it is ordered that the requisite number of copies of this award may be forwarded to the Central Government for necessary action at their end.

22nd February, 1993.

GANPATI SHARMA, Presiding Officer

नई दिल्ली, 30 मार्च, 1993

का.प्रा. 810.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मिल्ट्री फार्म पुरकाजी के प्रबन्धनत्व के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-3-93 को प्राप्त हुआ था।

[सं एल-14012/113/91-आई.आर. (डी.यू.) (Pt.)]  
के.वी.बी. उन्नी, डेस्क अधिकारी

New Delhi, the 30th March, 1993

S.O. 810.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Military Farm Purkazi and their workmen, which was received by the Central Government on 29-3-93.

[No. L-14012/113/91-IR(DU)(Pt.)]  
K. V. B. UNNY, Desk Officer

#### ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL

NEW DELHI

I.D. No. 93/92

In the matter of dispute between :

Shri Mawasi s/o Shri Simru,  
Village Sethpura,  
P.O. Purkazi,  
Distt. Mujaffarnagar-251001

Versus

Deputy Director, Military Farm,  
Central Command, Lucknow-226001

#### APPEARANCES :

None—for the workman.

Shri K. L. Tyagi—for the management.

#### AWARD

The Central Government in the Ministry of Labour vide its Order No. L-14012/113/91-I.R.(D.U.) dated 30-9-92 has referred the following industrial dispute to this Tribunal for adjudication :  
HINDI MONO

“क्या मिनिटरी फार्म पुरकाजी के प्रबन्धन द्वारा श्री मवानी पुत्र श्री सिमरू को दिनांक 1-02-86 से निष्कासन वैध और उचित है” यदि नहीं तो कर्मकार किस मनुष्य का अधिकारी है।

2. Registered A.D. Notice was sent to the workman but none appeared on behalf of the workman in support of the reference. It appears that the workman is not interested in pursuing this dispute and as such no dispute exist between the parties and I, therefore, pass a No Dispute Award in this case. Parties are left to bear their own costs.

22nd February, 1993.

GANPATI SHARMA, Presiding Officer

नई दिल्ली 6 अप्रैल, 1993

का. आ. 811— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेन्ट्रल एक्साईज स्टाफ कैंटीन बम्बई के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2 बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-3-93 को प्राप्त हुआ था।

[सं.एल-42012/55/89-आईआर(डीयू) (पीटी)]

के.वी.बी. उण्णी, डैस्क अधिकारी

#### NOTIFICATION

New Delhi, the 2nd April, 1993

S.O. 811.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2, Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Excise Staff Canteen Bombay and their workmen, which was received by the Central Government on 31-3-1993.

[No. L-42012/55/89-IR(DU) (Pt)]

K. V. B. UNNY, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, BOMBAY

PRESENT :

Shri P. D. APSHANKAR, Presiding Officer  
Reference No. 2/39 of 1989

PARTIES:

Employers in relation to the management of Central Excise Staff Canteen

&

Their Workmen

APPEARANCES :

For the management.—Shri P.M. Pradhan, Advocate.

For the workman.—Shri S. R. Atrè, Advocate.

INDUSTRY : Canteen.

STATE : Maharashtra

Bombay dated the 10th March, 1993

#### AWARD

The Central Government by their order No. L-42012/55/89-IR(DU) dated 4-9-1989 have referred the following Industrial Dispute to this Tribunal for adjudication under Section 10(i)(d) of the Industrial Disputes Act, 1947.

“Whether the action of the management of Central Excise Staff Canteen, Bombay, in terminating the Services of Smt. M. S. Jhaveri, Ex-Asstt. Manager-cum-Storekeeper, vide order dated 29-4-1987, is justified or not? If not, to what relief the workman concerned is entitled?”

2. The case of the said lady Miss M. S. Jhaveri, (after marriage Janhavi Vinay Phatarphekar) as disclosed from the Statement of Claim (Ex. W-2) filed by her in person, in short, is thus :

She joined the services with the Central Excise Staff Canteen as an Assistant Manager-cum-Storekeeper from 11-4-1985 by the order dated 1-5-1985 issued by the Secretary of that Canteen. She was required to be on probation for a period of 6 months. She worked satisfactorily during that period. However, her services were terminated by the order dated 29-4-1987 under sub-rule (1) of Rule 5 of the Central Civil Services (Temporary Services) Rules, 1965, by the Honorary Secretary of that Canteen. Thereafter she raised the industrial dispute before the Assistant Labour Commissioner (Central), Bombay. As the conciliation proceedings ended in failure, the Central Government made the Reference as above.

3. The said lady further alleged thus :

She had continued in services for more than two years, and as such, she was a permanent employee of the Central Excise Staff Canteen as per the provisions of Sub-rule (3) of Rule 8 of Chapter-II of the Departmental Canteen Employees' (Recruitment and Conditions of Service) Rules, 1980. As such she should have been declared as a permanent employee of that canteen, and hence the termination of her services from that canteen is illegal and bad-in-law. She is governed by the Departmental Canteen Employees' (Recruitment and Conditions of Service) Rules, 1980, and as such, the notice regarding the termination of her services issued under Rule 5(1) of the Central Civil Services (Temporary Services) Rules, 1965, is illegal and bad-in-law. Before issuing the notice regarding the termination of her services, she was not given any opportunity to place forth her case, and as such the termination of her services is contrary to the principles of natural justice, and is illegal. The said lady, therefore, lastly prayed that this Tribunal should hold the action of the management in question as unjust, improper, and illegal, and should direct the

Central Excise Staff Canteen to reinstatement her in service as a permanent employee, and to pay her all the back wages due from 29-4-1987, and to award her all the necessary consequential benefits of the services.

4. The Central Excise Staff Canteen by their Written Statement (Ex. M3) opposed the said claim of the said lady, and in substance, contended thus :

The department of Central Excise, Bombay, is having 'B' type Departmental Canteen. This canteen is governed by the Departmental Canteen employees (Recruitment & Conditions of Service) Rules 1980. All recruitments are to be made in accordance with the provisions of these rules. Miss M. S. Jhaveri was appointed as an Assistant Manager-cum-Store keeper on daily wages in a temporary post w.c.f. 11-4-1985, and the appointment order was issued on 1-5-1985. However, this was an irregular appointment, as it was not made by following the procedure laid down in the Departmental Canteen Employees (Recruitment and Conditions of Service) Rules, 1980. The name of the said lady was not sponsored by the Employment Exchange nor her appointment was recommended/approved by the committee constituted for that purpose, nor any condition prescribed in para 5(2), Column 3 to 8 of the Schedule 'B' of the said Rules was fulfilled, while appointing her. As such her appointment was irregular. As the post of the Assistant Manager-cum-Store Keeper was not in existence in the canteen, prior approval of the Ministry of Finance should have been obtained before making the appointment of that lady, especially when there was a ban on the recruitment. There was a ban order for the creation of post and filling up of vacancies in the canteen w.e.f. 1-10-1979, of the Ministry of Finance. In view of the said ban-order of the Government of India, and as the appointment of the said lady was made purely on temporary basis and on daily wages and was made without following procedure laid down in the Departmental Canteen Employees' Rules 1980, her services were terminated by giving her one month's notice by the Honorary Secretary of the Canteen, in accordance with the Civil Services (Temporary Services) Rules 1965, as she was holding a Civil Post.

5. The management further contended thus :—

The said lady was appointed as an Assistant Manager-cum-Storekeeper in the Central Excise Staff Canteen on purely temporary basis and on condition of her giving an undertaking/declaration that her services might be terminated at any time by giving one month's notice without assigning any reasons. Merely because she had completed two years' services, it cannot be said that she was the permanent employee of the canteen.

as her appointment was not made as per the provisions of the Departmental Rules, 1980, and she cannot be treated as a permanent employee, as alleged by her. The Central Excise Staff Canteen does not fall within the purview of Section 2(j) of the Industrial Disputes Act, and it is not an 'industry'. As such the employees including the said lady are not governed by the provisions of the Industrial Disputes Act, 1947. The appointment of the said lady was irregular and her services were terminated in accordance with the provisions of law, i.e. as per the Central Civil Services (Temporary Services) Rules, 1965. As the appointment of the said lady was irregular, there was no need of giving a personal hearing to her before the termination of her services, as the termination of her services was not on account of any misconduct on her part, and there was also no necessity of giving any reasons for the termination of her services. The management, therefore, lastly prayed that this Tribunal should hold the action of the management in question as just and proper, and should reject the prayer of the said lady.

6. The Issues framed at Ex. 4 are :

- (1) Whether the appointment of Miss M. S. Jhaveri (after marriage Mrs. J. V. Phatarphekar) to the post of Assistant Manager-cum-Storekeeper was made by the Central Excise Staff Canteen irregularly, and without following the necessary rules ?
  - (1A) Whether the canteen run by the Central Excise Staff is an industry within the meaning of Section 2(j) of the Industrial Disputes Act ?
  - (2) Whether the termination of service of the said worklady is illegal and bad in law ?
  - (3) If so, to what relief she is entitled ?
  - (4) What Award ?
7. My findings on the said Issues are :
- (1) No, valid and proper
  - (1A) Yes.
  - (2) Yes
  - (3) As per Award Below.
  - (4) As per below.

#### REASONS

8. The lady Miss M. S. Jhaveri (after marriage named as Mrs. J. V. Phatarphekar) filed her affidavit in support of her case at Ex. W-9 and she was cross-examined on behalf of the management. Mrs. Parvati Ganeshan, the Administrative officer of the Collectorate of Central Excise and the Secretary of the Central Excise Staff Canteen filed her affidavit (Ex. M-11) in support of the case of the management, and she was cross-examined on behalf of the workman, i.e. the said lady. The material documentary evidence on record which supports the case of the said lady is thus : Ex. 2A is the copy of the appointment order dated 1-5-1985 appointing the said lady as Assistant Manager-cum-Storekeeper in the canteen, issued by the secretary of the Central Excise Staff Canteen, Bombay. This appointment letter stated that she was appointed in a temporary post, and on condition of her producing the necessary medical physical fitness certificate, that she would be on probation for the period of six

months which might be extended by further period of six months in case her conduct and work were not found satisfactory and that on her giving the declaration to the management that her appointment was temporary, and that her services might be terminated at any time with one month's notice without any reasons being assigned. As such that lady was initially appointed on temporary post and on probation for a period of six months.

Ex. 2B is the copy of the notice terminating the services of that lady issued under Rule 5(1) of the Central Civil Services (temporary services) Rules, 1965, by the Honorary Secretary of that Canteen. This notice stated that her services would stand terminated from the date from which that notice would be received by her. As such her services were terminated under the Rules of the Central Services (temporary services) Rules 1965. However I find that the termination of her services under the Rules of 1965 was not valid and legal, and that the Central Excise staff canteen and their employees including the said lady were governed by the Departmental Canteen Employees (Recruitment and Conditions of Service) Rules 1980, and therefore as the services of that lady were not terminated under those rules of 1980, the termination of the services was not valid and legal.

8(a) The zerox copy of the Departmental Canteen Employees (Recruitment and conditions of service) Rules 1980 is at Ex. W/8. It will be seen from Rule 2(8) that, "regular employee" means an employee who has completed his period of probation satisfactorily. In the present case it is an admitted fact that the said lady had completed her period of probation of six months satisfactorily and it was not extended thereafter. As such as per Rule 2(8) of the Rules of 1980, the said lady had attained the status of a "Regular Employee" with the management. Rule six of these Rules of 1980 states that (1) subject to the provisions of sub-rule (2), a member of the service who completes his period of probation satisfactorily shall be deemed to have been appointed on regular basis with effect from the date he completes his period of probation. (2) No person shall be appointed to the service on the regular basis unless he is found to be medically fit in all respects by the authorised Medical Attendant. In the present case the said lady had completed the period of her probation of six months satisfactorily. However, no medical fitness certificate was produced by her before the management. In this connection it may be noted that it was the management who had not asked her to appear before the medical officer and get her medically examined and hence she could not produce any medical certificate before the management. Therefore, the fault was on the part of the management and not on the part of the said lady, and hence it must be said that the said lady had attained the status of a regular employee on her completion of the period of six months of probation satisfactorily.

9. It will be seen from Schedule 'B' to the said Rules of 1980 that the post of the Assistant Manager-cum-Storekeeper can be recruited by direct recruitment. Admittedly in the present case, the name of that lady was not sponsored by the Employment Exchange. Therefore according to the management, her appointment was not valid and proper. However as

noted above, the post of the Assistant Manager-cum-Storekeeper is to be recruited by direct recruitment, and as such it is not necessary that the name of the person concerned for that post must be sponsored through the employment exchange. The remarks column of Schedule 'B' of those Rules states that the vacancies for direct recruitment in a canteen shall be circulated simultaneously to the local employment exchange and other offices and the establishments of the Central Government. Therefore, it is quite clear that the name of the employee concerned is not necessarily required to be sponsored through the employment exchange, and that the employees can be recruited by the mode of direct recruitment. Schedule 'C' of the said Rules of 1980 relates to the appointing authority. It will be seen therefrom that the appointing authority for the post of Assistant Manager-cum-storekeeper is the Honorary Secretary of the managing committee. In the present case the said lady was admittedly appointed by the then Secretary of the Managing Committee by name Miss Choubbe, and as such she was appointed by competent authority in the matter and as such, her appointment to the post of Assistant Manager-cum-Storekeeper was valid and proper. According to the management, the said lady was not considered for the said post by the committee of the canteen constituted in that matter, and as such her appointment was not valid and proper. However the management's witness Mrs. Parvati Ganeshan, stated in her cross-examination that, "no such committee was in fact constituted at the relevant time," and therefore the appointment of the lady in question to the said post cannot be considered as improper or illegal.

10. Ex. 38 is a copy of the letter dated 10-9-1985 of the Government of India. This letter stated that the current orders regarding the ban on creation of post and filling up of existing vacancies are also applicable to the posts in canteen, as decided by the Government. As such, as per this letter, there was a ban on the appointment to certain posts. However, this ban order is dated 10-9-1985, while the lady in question was already appointed in services by the letter dated 1-5-1985 w.e.f. 11-4-1985. As such at the time she was appointed in services of the Central Excise Staff Canteen, the said ban order was not in existence, and as such, her appointment on that ground cannot be said to be improper or illegal.

11. Ex. W-7 is a copy of the letter sent by the Director of Canteen of the Government of India dated 8-10-1984. This letter stated that it was noticed that some of the departments are taking action against employees of Departmental Canteen invoking the provisions of Central Civil Service Rules 1965, but this is not in order, and that such employees are governed by the Rules enshrined in GSR-54 of 17-1-1981. Therefore, it is quite clear from the said letter of October 1984, i.e. issued much before the appointment of the said lady in services in April 1985, that the employees of the Departmental canteen are not governed by the Central Civil Services Rules 1965. In the present case the order terminating the services of the said lady was issued under Rule 5(1) of the said rules of 1965, even though the said lady was not then governed by those rules of 1965. The Canteen in question and the said lady

were then governed by the Departmental Canteen Employees (Recruitment and conditions of services) Rules 1980. Therefore, the termination of the services of the said lady under the Central Civil Services Rules of 1965 was obviously improper, invalid, and illegal. It will be seen from the Compilation of Administrative Instructions on Departmental Canteens (Ex.M/16) page 27 that the number of the sanctioned posts of the Assistant Manager-cum-Storekeeper in 'B' type canteen was one. As such the said lady was appointed on that post. Therefore it cannot be said that there was no sanctioned posts then and as such the appointment of that lady to the post of Assistant Manager-cum-Storekeeper was irregular. I find that her appointment to the said post was proper, valid and legal. Therefore, for the abovesaid reasons which are supported by the documentary evidence on record, I find that the appointment of the said lady to the said post was not irregular, and that it was regular, proper and valid.

Issue No. 1, is therefore found in the negative.

#### 12. ISSUE NO. 1A :

According to the management, the Canteen run by the Central Excise Staff is not an "Industry" within the meaning of Section 2(j) of the Industrial Disputes Act 1947. As per Section 2(j), "Industry", means any systematic activity carried on by co-operation between the employer and his workmen for the production, supply, or distribution of goods and services with a view to satisfy human wants or wishes, whether or not any capital has been invested for the purposes of carrying on such activity, or whether or not such activity is carried on with a motive to make any gain or profit". The said lady Mrs. Phatarpekar stated in her affidavit thus :

"The Central Excise Staff Canteen is an 'Industry'. Its functions are of productive nature. It is engaged in the process of manufacturing food items, such as tea, coffee, cold drinks etc. and also the catables like Batata Wada, Medu Wada, Sandwich, and it also prepared rice plates etc. and sells the said items to the staff of the Central Excise and also to the General Public".

Therefore, it is quite clear from the work done in the said canteen that it falls within the proviso of the term 'industry' as contemplated under Section 2(j) of the Industrial Disputes Act, and as such the canteen in question and the said lady are governed by the Industrial Disputes Act, 1947.

Issue No. 1A is, therefore found in the affirmative.

It was further urged on behalf of the management that the said lady was not a workman under the Section 2(S) of the Industrial Disputes Act, 1947. It may be noted that this contention was not raised by the management, in their written statement or at the time of the evidence of the parties, but that it was raised for the first time in their Written Arguments. Therefore, as no opportunity could be given and was given to the said lady to put in her say in the matter, the said contention of the management cannot be considered at the time of the arguments. Apart from that, I find that the said lady

fell and was governed by the definition of the term 'workman' as defined under Section 2(S) of the Industrial Disputes Act. It is true that about 12 employees were then working under her, and that she was appointed as an Assistant Manager-cum-Storekeeper. Therefore, even though she had the supervisory powers, there is no evidence on record that she was appointed mainly in the Managerial or Administrative Capacity. It is seen from the evidence of the said lady that the Canteen Manager was their Supervisor, and as such the said lady was governed by the term 'workman' as defined under Section 2(s) of the Industrial Disputes Act.

#### 13. ISSUES NOS. 2 and 3 :

At the time of the termination of the services of the said lady, she was given only one month's notice. However, she was not given any retrenchment compensation as contemplated under Section 25F of the Industrial Disputes Act. Admittedly she was in the services of the management from 11-4-1935 to 29-4-1987, i.e. for more than two complete years, and as such, that lady who had also attained the status of a regular employee, had completed more than 240 days of service during the continuous period of 12 months before the date of the termination of the services on 29-4-1987. Therefore, in law she was entitled to the necessary retrenchment compensation which was admittedly not paid to her by the management. As noted above, she was appointed in services by the competent authority and her appointment was proper, but as noted above, the termination of her services without complying with the provisions of Section 25F of the Industrial Disputes Act, was not proper, valid and legal. As such she is entitled to the reinstatement in services with full back wages with continuity of services and with all consequential benefits of the services.

ISSUES NOS. 2 and 3 are therefore, found accordingly.

#### 14. In the result, the following Award is passed :

##### AWARD

The action of the management of Central Excise Staff Canteen, Bombay, in terminating the services of Smt. M. S. Jhaveri, (after marriage named as Mrs. Janhavi Vinay Phatarpekar) Ex-Assistant Manager-cum-Storekeeper by the order dated 29-4-87, is not just, proper, valid, and legal.

The said management is hereby directed to reinstate that lady in services w.e.f. 29-4-1987 with full back wages and with continuity of services and with all consequential service benefits.

The parties to bear their own costs of this reference.

P. D. APSHANKAR, Presiding Officer  
10th March, 1993

नई दिल्ली, 7 अप्रैल, 1993

का. आ. 812.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार लार्ड कृष्णा बैंक लिमिटेड के प्रबन्धतन्त्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक

विवाद में औद्योगिक अधिकरण, कोल्लम के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 2/4/93 को प्राप्त हुआ था।

[संख्या एन-12012/155/91-आईआर (बी-III)]  
एच. बी. जैन, डेस्क अधिकारी

New Delhi, the 7th April, 1993

S.O. 812.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Kollam as shown in the Annexure. In the industrial dispute between the employers in relation to the management of Lord Krishna Bank Limited and their workmen, which was received by the Central Government on the 2-4-1993.

[No. L-12012/155/91-IR(BIII)]  
S. K. JAIN, Desk Officer

#### ANNEXURE

#### IN THE COURT OF THE INDUSTRIAL TRIBUNAL, KOLLAM

(Dated, this the 11th day of March, 1993)

#### PRESENT :

Sri C. N. Sasidharan,  
Industrial Tribunal,

IN

Industrial Dispute No. 31/91

#### BETWEEN

The Chairman, Lord Krishna Bank Ltd., Central Office,  
Kodungallur 680664.

(Shahid & Associates Lawyers, Anandavaleeswaram,  
Quilon)

#### AND

The General Secretary, Lord Krishna Bank Employees  
Union, Central Office, Nair Samjam Building,  
Chendamangalam 683512.

(H. B. Shenoy Associates, Advocates, Cochin).

#### AWARD

This industrial dispute has been referred for adjudication to this Tribunal by the Government of India as per order No L-12012/155/91-IR.B.III dated 20-6-1991.

The issue for adjudication is the following :

"Whether the action on the part of the management of Lord Krishna Bank Ltd., in terminating/denying Sri P. Raju employment as a peon beyond 2-11-1989 is fair and justified? If not, to what relief the said workman is entitled to?"

2. In answer to notices issued from this Tribunal both management and union entered appearance and filed statements advancing their respective contentions. Thereafter, while the case was pending for evidence, counsel, on both sides submitted on 24-3-1992 that there was likelihood of settlement. Accordingly the case stood posted on several dates at the instance of the parties for reporting settlement. Finally on 9-3-1993 the union filed a statement stating that the matter has been settled and prayed for passing an award in terms of the settlement. A copy of the memorandum of settlement was also filed wherein the name of the workman in this case Sri P. Raju is shown as No. 1 in the annexure. The learned counsel for the management also submitted that the matter has been settled.

3. As requested by both sides the memorandum of settlement is accepted and I pass an award in terms of the settlement, a copy of which is shown as annexure to this award.

C. N. SASIDHARAN, Industrial Tribunal

#### ANNEXURE

MEMORANDUM OF SETTLEMENT ARRIVED AT UNDER SECTION 12(3) OF THE INDUSTRIAL DISPUTES ACT, 1947 IN THE INDUSTRIAL DISPUTE BETWEEN THE MANAGEMENT OF M/S. THE LORD KRISHNA BANK LTD. AND LORD KRISHNA BANK EMPLOYEES' UNION ON 25TH JANUARY, 1993 REGARDING ABSORPTION OF DAILY WAGES IN SUB-ORDINATE CADRE ETC.

#### Parties Present :

##### Representing Employer :

Sri K. O. Jose,  
Chief Manager (Personnel),  
M/s. The Lord Krishna Bank Ltd.,  
H.O. Kodungallur.

##### Representing Workmen :

1. Shri V. P. Kamath, General Secretary,  
Lord Krishna Bank Employees,  
Union,  
Chendamangalam.
2. Sri S. S. Pillai, Secretary.
3. Sri John Sreeni, Organising  
Secretary.

##### Short recital of the Case

Lord Krishna Bank Employees union vide their letter dated 15-9-1992 raised an industrial dispute regarding non-absorption of the daily wagers in the sub-ordinate cadre and regarding rates of wages to daily waged temporary employees etc. Discussions in the above dispute were held on 15-10-1992 and on a number of occasions thereafter. Final discussions were held on 25-1-93. During the course of final round of discussion both the parties have stated that they have reached on understanding relating to case filed by Shri C. N. Narayana Pai, cases filed by part-time sweepers of Agniva-nour branch by Shri Krishnanandan and P. K. Suresh Kumar halting allowance to sub-staff for attending promotion test and interview and appointment on contract basis. After some discussions, the dispute is admitted in conciliation and a settlement has been arrived at under Section 12(3) of I.D. Act, 1947 on the issues relating to absorption of daily wages and rates of wages to temporary daily wagers. During the conciliation proceedings held on 25th January, 1993

##### Terms of settlement

1. The management of M/s. Lord Krishna Bank Ltd. agreed to absorb 14 daily rated temporary employees as shown in Annexure, who have worked in various branches from 1-1-1982 to 31-12-1990 for more than 90 days, in a phased manner in the order of maximum number of days worked by them.

- (a) The identified four vacancies of sub-staff cadre in the bank will be absorbed before 28-2-1993. Another seven hands from the seniority list will be absorbed before 31-12-1993. Remaining three hands in the seniority list will be absorbed before 31-3-94 and the union has agreed to withdraw all the cases related the fourteen daily wagers. The union agreed that this issue is fully and finally resolved and they have no further claim in the matter.
- (b) Till absorption of these 14 daily wagers in the regular service in the subordination cadre of the Bank they will be engaged in the branches whenever a permanent sub-staff enters on leave on a daily wage of Rs. 30 per day of actual working.
- (c) No appointment will be made in the sub-staff cadre either in daily wage basis or otherwise from outside the penal without completing the absorption of fourteen daily wagers who are in the list.
- (d) It is agreed by the union to withdraw all claim petition/industrial dispute pending before various Labour Courts/Industrial Tribunals relating to the 14 daily wagers enlisted.

2. Both the parties agreed to submit the implementation report of this settlement to the Regional Labour Commissioner (Central), Cochin on or before 30-4-1994, failing which the settlement shall be treated to have been fully implemented.  
Signature of the parties :

Sd/-

(K. C. Jose)

Sd/-

(V. P. Kamath)

Sd/-

(S. S. Pillai)

Witnesses :

1. Sd/-

(V. K. Kakan)

Sd/-

2. (V. Divakaran)

Sd/-

3. (John Sreeni)

Signed before me on 26th January, 1993.

Sd/-

C. C. S. REDDY

Regional Labour Commissioner (Central)

(Cochin)

Sl. No Name and address

1. Mr. P. Raju, Perumkarukayil House, Edavattom P.O.

2. V. K. Cheriyyan, Valluvanthara House  
Kallissary P.O. Chengannur.3. S. Suresh Pendiya/aperambal, Vellakutar Ward,  
Alleppey4. V. Balakrishna Pai, Noncel Thashasthangali,  
Kottayam

5. Mr. K. P. Sureshkumar, Kattarath House, South Parur

6. Mr. R. Krishnakumar, Srinivasa Mandiram,  
Kannakulangara, Tripunithura

3. Mr. P. L. Martin, Chittilakkadu Nathilil P.O. Kollam

9. R. Gokuldas, Nammooteil, S. V. Ward, Kayamkulam

10. S. G. Gopakrishna Shanoy, North Cherlai, Cochin

10. S. G. Gopakrishna Shanoy, North Cherlai, Cochin  
hara, Perchannur

12. P. G. Prakash, Prasanthi, P.O., Charuvallur

12. A. N. Abdul Sabeer, Alangattookoranmala

13. Mr. Chankakantha, Magarkatti, Kerakode, Kasaragod.  
Signature of Parties

Representing management

Sd/-

Representing management

(K. U. Jose)

Chief Manager (P)

Dated : 25-1-1993.

-Representing Union

Sd/-

(V. P. Kamath)

General Secretary

Lord Krishna Bank Employees Union

Sd/-

Regional Labour Commissioner (Central),

Cochin.

नई दिल्ली, 7 अप्रैल, 1993

का.अ. 813—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार लार्ड क्रुणा बैंक लिमिटेड के प्रबन्धनत्व के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, कोल्लम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-4-93 को प्राप्त हुआ था।

[संख्या एल-12012/154/91-आई आर (बी-III)]

एम.के. जैन, डेस्क अधिकारी

New Delhi, the 7th April, 1993

S.O. 813.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Kollam as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Lord Krishna Bank Limited and their workmen, which was received by the Central Government on the 2-4-1993.

[No. 1-12012/154/91-IR (B.III)]

S. K. JAIN, Desk Officer

## ANNEXURE

IN THE COURT OF THE INDUSTRIAL TRIBUNAL,  
KOLLAM

(Dated, this the 11th day of March, 1993)

PRESENT:

Sri C. N. Sasidharan, Industrial Tribunal.

IN

Industrial Dispute No. 23/91

BETWEEN

The Chairman, Lord Krishna Bank Ltd., Central Office,  
Kodungallur 680664.(By Shahid & Associates, Lawyers, Anandavallee-  
swaraman, Quilon)

AND

The General Secretary, Lord Krishna Bank Employees  
Union, Central Office, Nair Samajam Building,  
Chendamangalam 683512.

(By Sri H. B. Shenoy, Advocate. Cochin)

AWARD

The Government of India as per Order No. L-12012/154/91-IR.B.III dated 11th June, 1991 has referred this industrial dispute to this Tribunal for adjudicating the following issue:

## SCHEDULE

"Whether the action on the part of the management of Lord Krishna Bank Ltd., in terminating/denying Sri P. L. Martin employment as a Peon beyond 13th November, 1989 is fair and justifiable? If not, to what relief the said workman is entitled to?"

2. In pursuance to notices issued from this Tribunal both the management and the union entered appearance and filed statements advancing their respective contentions. Thereafter, while the case was pending for evidence both sides submitted that there was a chance of settlement and accordingly the case stood posted on several dates for reporting settlement. On 13-11-1992 when the case was called the union and its counsel remained absent without any reason whatsoever. No adjournment was also sought. Accordingly the union was set ex-parte. The learned counsel for the management submitted on that day that the matter has been settled and also filed a memo of compromise along with a copy of the memorandum of settlement. In the absence of the union the statement of the learned counsel for the management was accepted and an award has been passed by this Tribunal on 4-12-1992. Thereafter, the union filed a petition for setting aside the ex-parte award and also a petition stating that the matter has been settled. A copy of the memorandum of settlement was also produced with a prayer for passing an award in terms of the settlement. Since there was no objection from the side of the management, the ex-parte award was set aside.

3. As requested by the parties the memorandum of settlement is accepted and an award is passed in terms thereof, a copy of which is shown as annexure to this award.

C. N. SASIDHARAN, Industrial Tribunal

MEMORANDUM OF SETTLEMENT ARRIVED AT UNDER SECTION 12(3) OF THE INDUSTRIAL DISPUTES ACT, 1947 IN THE INDUSTRIAL DISPUTE BETWEEN THE MANAGEMENT OF M/s. LORD KRISHNA BANK LTD. AND LORD KRISHNA BANK EMPLOYEES' UNION ON 25TH JANUARY, 1993 REGARDING ABSORPTION OF DAILY WAGERS IN SUBORDINATE CADRE ETC.

#### PARTIES PRESENT :

Representing employer : Shri K. O. Jose, Chief Manager (Personnel) M/s. The Lord Krishna Bank Ltd. H. O. Kodungallur.

Representing Workmen : 1. Shri V. P. Kamath, General Secretary, Lord Krishna Bank Employees' Union Chandamangalam.

2. Shri S. S. Pillai Secretary.

3. Shri John Sreeni, Organising Secretary.

#### SHORT RECITAL OF THE CASE

Lord Krishna Bank Employees' union vide their letter dated 15-9-1992 raised an industrial dispute regarding non-absorption of the daily wagers in the sub-ordinate cadre and regarding rates of wages to daily waged temporary employees etc.

Discussions in the above dispute were held on 15-10-1992 and on a number of occasions thereafter. Final discussions were held on 25-1-1993. During the course of final round of discussions both the parties have stated that they have reached an understanding relating to cases filed by Shri C. N. Narayana Pai, cases filed by part-time sweepers of Azhyanur branch, by Shri Krishnanandanand P. K. Suresh Kumar halting allowance to sub-staff for attending promotion test and interview and appointment on contract basis.

After some discussions the dispute is admitted in conciliation and a settlement has been arrived at under Section 12(3) of the I.D. Act, 1947 on the issues relating to absorption of daily wagers and rates of wages to temporary daily wagers, during the conciliation proceedings held on 25th January, 1993.

#### TERMS OF SETTLEMENT

1. The management of M/s. Lord Krishna Bank Ltd. agreed to absorb 14 daily rated temporary employees as shown in Annexure, who have worked in various branches from 1-1-1982 to 31-12-1990 for more than 90 days in a phased manner in the order of maximum number of days worked by them.

(a) The identified four vacancies of sub-staff cadre in the bank will be absorbed before 28-2-1993. Another seven hands from seniority list will be absorbed before 31-12-1993. Remaining three hands in the seniority list will be absorbed before 31-3-1994 and the union has agreed to withdraw all the cases related the fourteen daily wagers. The union agreed that this issue is fully and finally resolved and they have no further claim in the matter.

(b) Till absorption of these 14 daily wagers in the regular service in the subordinate cadre of the Bank they will be engaged in the branches whenever a permanent sub-staff enters on leave on a daily wage of Rs. 30 per day of actual working.

(c) No appointment will be made in the sub-staff cadre either on daily wage basis or otherwise from outside the panel without completing the absorption of fourteen daily wagers who are in the list.

(d) It is agreed by the union to withdraw all claim petition/industrial disputes pending before various Labour Courts/Industrial Tribunals relating to the 14 daily wagers enlisted.

2. Both the parties agreed to submit the implementation report of this settlements to the Regional Labour Commissioner (Central), Cochin on or before 30-4-1994, failing which the settlement shall be treated to have been fully implemented.

Signature of parties

Sd/-  
(K. O. Jose)

Sd/-  
(V. P. Kamath)

Sd/-  
(S. S. Pillai)

Witnesses :

1. (V. K. Rajan) Sd/-
2. (V. Divakaran) Sd/-
3. (John Sreeni) Sd/-

Signed before me on 25th January, 1993.

Sd/-  
C. C. S. REDDY, Regional Labour Commissioner  
(Central) Cochin.

Sl. No. Name and Address

1. Mr. P. Raju, Perumkarukayil House, Edvattom P.O.
2. Mr. V. M. Cheriyan, Valluvanthara House, Kallissery P.O. Chengannur.
3. Mr. S. Suresh, Pandiyalaparambil, Yellakuier Ward, Alleppey.
4. Mr. V. Balakrishna Pai, Manelel Thazhathangadi, Kottayam.
5. Mr. K. Narayana Prachu, Kalarikkai Shertallay.
6. Mr. K. P. Suresh Kumar, Kattuzhath House, South Parur.
7. Mr. R. Krishnakumar, Srinivasa Mandiram, Kannakulangara, Tripunithura.
8. Mr. P. L. Martin, Chittilakkadu Mathilil P.O., Quilon.
9. Mr. R. Gokuldas, Mamoottil, S. V. Ward, Kuyamkulam.
10. Mr. S. G. Gopalakrishna Shanoy Worth Cherlai, Cochin.
11. Mr. P. V. Parasuraman, Veetakannan kavu, Madhom, Thakethara, Puzhayannur.
12. Mr. P. G. Prakash, Prasanthi, P.O. Cheruvallor.
13. Mr. A. M. Abdul Kabeer, Alangattookaran Male.
14. Mr. Chandrakantha, Magarkatti, Karakode. Kasargod.

Signature of Parties

Representing Management  
Sd/-

K. U. Jose, Chief Manager (P)

Representing Union  
Sd/-

(V. P. Kamath),  
General Secretary,

Lord Krishna Bank Employees Union  
Sd/-

Regional Labour Commissioner (Central),  
Cochin.

Dated 25-1-1993.

नई दिल्ली, 6 अप्रैल, 1993

का. प्रा. 814.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार लार्ड कृष्णा बैंक लिमिटेड कोषबन्धित से संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण कोल्लम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-4-93 को प्राप्त हुआ था।

[संख्या एन 12011/24/91 आई आर बी (iii)]

एम के. जैन बैंक अधिकारी



New Delhi, the 6th April, 1993

S.O. 814.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Kollam as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Lord Krishna-Bank Limited and their workmen, which was received by the Central Government on 2-4-1993.

[No. L. 12011/24/91-IR (B III)]  
S. K. JAIN, Desk Officer

#### ANNEXURE

#### IN THE COURT OF THE INDUSTRIAL TRIBUNAL, KOLLAM

(Dated, this the 11th day of March, 1993)

PRESENT :

SHRI C. N. SASIDHAN, Industrial Tribunal  
IN

INDUSTRIAL DISPUTE NO. 30/91

BETWEEN

The Chairman, Lord Krishna Bank Ltd., Central  
Office Kodungallur-680664

(By Shahid & Associates Lawyers, Anandavalleeswaram)

AND

The General Secretary, Lord Krishna Bank Employees Union, Central Office, Nair Samajam Building, Chendamangalam.

(By H. B. Shenoy Associates, Advocates, Cochin)

#### AWARD

The industrial dispute has been referred for adjudication to this Tribunal by the Government of India as per Order No. L-12011/24/91-IR.B. III dated 20-6-1991.

The issue for adjudication is the following :

#### THE SCHEDULE

"Whether the action on the part of the management of Lord Krishna Bank Ltd., in terminating/denying employment to S/s. V. M. Cherian and R. Gokuldas as peons beyond 4-12-1989 and 6-12-1989 respectively is fair and justified? If not, to what relief the said workmen are entitled?"

2. In answer to notices issued from this Tribunal both management and union entered appearance and filed statements advancing their respective contentions. Thereafter, while the case was pending for evidence, counsel on both sides submitted on 24-3-1992 that there was likelihood of settlement. Accordingly the case stood posted on several dates at the instance of the parties for reporting settlement. Finally on 9-3-1993 the union filed a statement stating that the matter has been settled and prayed for passing an award in terms of the settlement. A copy of the memorandum of settlement was also filed wherein the name of the workman in this case Sri V. M. Cherian is shown as No. II in the annexure. The 873 GI/93—8.

learned counsel for the management also submitted that the matter has been settled.

3. As requested by both sides the memorandum of settlement is accepted and I pass an award in terms of the settlement, a copy of which is shown as annexure to this award.

C. N. SASIDHARAN, Industrial Tribunal.

#### ANNEXURE

Memorandum of settlement arrived at under section 12(3) of the Industrial Disputes Act, 1947 in the Industrial Dispute between the management of M/s The Lord Krishna Bank Ltd. and Lord Krishna Bank employees' Union on 25th January, 1993 regarding absorption of daily wages in sub-ordinate cadre etc.

#### PARTIES PRESENT :

Representing Employer :

Shri K. O. Jose, Chief Manager (Personnel)  
M/s. The Lord Krishna Bank Ltd., H.O.  
Kodungallur.

Representing workmen :

1. Sri V. P. Kamath, General Secretary, Lord Krishna Bank Employees' Union, Chendamangalam.

2. Sri S. S. Pillari, Secretary.

3. Sri John Sreeni, Organizing Secretary.

#### SHORT RECITAL OF THE CASE

Lord Krishna Bank Employees' Union vide their letter dated 15-9-1992 raised an industrial dispute regarding non-absorption of the daily wages in the sub-ordinate cadre and regarding rates of wages to daily waged temporary employees etc.

Discussions in the above dispute were held on 15-10-1992 and on a number of occasions thereafter. Final discussions were held on 25-1-1993. During the course of final round of discussions both the parties have stated that they have reached an understanding relating to cases filed by Sri C. N. Narayana Pai, case filed by part-time sweepers of Azhiyanur branch, by Sri Krishnanandan and P. K. Suresh Kumar, halting allowance to sub-staff for attending promotion test and interview and appointment on contract basis. After some discussions, the dispute is admitted in conciliation and a settlement has been arrived at under Section 12(3) of the I.D. Act, 1947 on the issues relating to absorption of daily wages and rates of wages to temporary daily wages, during the conciliation proceedings held on 25th January, 1993

#### TERMS OF SETTLEMENT

1. The management of M/s. Lord Krishna Bank Ltd. agreed to absorb 14 daily rated temporary employees as shown in Annexure, who have worked in various branches from 1-1-1982 to 31-12-1990 for more than 90 days, in a phased manner in the order of maximum number of days worked by them

- (a) The identified four vacancies of sub-staff cadre in the bank will be absorbed before 28-2-1993. Another seven hands from the seniority list will be absorbed before 31-12-1993. Remaining three hands in the seniority list will be absorbed before 31-3-1994 and the union has agreed to withdraw all the cases related the fourteen daily wagers. The union agreed that this issue is fully and finally resolved and they have no further claim in the matter.
- (b) Till absorption of these 14 daily wagers in the regular service in the sub-ordinate cadre of the Bank they will be engaged in the branches whenever a permanent sub-staff enters on leave on a daily wage of Rs 30 per day of actual working.
- (c) No appointment will be made in the sub-staff cadre either in daily wage basis or otherwise from outside the panel without completing the absorption of fourteen daily wagers who are in the list.
- (d) It is agreed by the union to withdraw all claim petition/industrial dispute pending before various Labour Courts/Industrial Tribunals relating to the 14 daily wagers enlisted.

2. Both the parties agreed to submit the implementation report of this settlement to the Regional Labour Commissioner (Central), Cochin on or before 30-4-1994, failing which the settlement shall be treated to have been fully implemented.

Signature of the parties :

Sd/- Sd/- Sd/-  
(K.O. Jose) (V.P. Mamath) (S.S. Pillai)

Witnesses

1. Sd/-  
(V. K. Rakan)
2. (V. Divakaran) Sd/-
3. (John Sreeni) Sd/-

Signed before me on 23th January, 1993.  
Sd/-

C.C.S. REDDY

Regional Labour Commissioner (Central) Cochin

- | Sl. No. | Name and address   |
|---------|--|
| 1.      | Mr. P. Raju, Perumkarukayil House, Edavattom P.O.                      |
| 2.      | Mr. V. M. Cheriyan, Valluvanthara House, Kallissery P. O., Chengannur  |
| 3.      | Mr. S. Suresh, Pandiyalaparambil, Yellakuier Ward, Alleppey.           |
| 4.      | Mr. V. Balakrishna Pai, Manelal Thazhathangadi, Kottayam.              |
| 5.      | Mr. K. P. Sureshkumar, Kattarath House, South Parur                    |
| 6.      | Mr. R. Krishnakumar, Srinivasa Mandiram, Kannakulangara, Tripunithura. |
| 8.      | Mr. P. L. Martin, Chittilakkadu Mathilil P. O., Kollam                 |
| 9.      | Mr. R. Gokuldas, Mammoottil, S. V. Ward, Kayamkulam                    |

10. Mr. S. G. Gopalkrishna Shanoy, North Cherlai, Cochin.
11. Mr. P. V. Parasuraman, Vettakannankavu, Madhom, Thelleshara, Pazhayannur.
12. Mr. P. G. Prakash, Prasanthi, P.O., Cheruvallor
13. Mr. A. M. Abdul Kebcer, Alangattookaran-mala
14. Mr. Chandrakantha, Magarkatti, Karakode, Kasaragod.

#### SIGNATURE OF PARTIES

Representing management

Sd/-  
(K. U. Jose)  
Chief Manager(P)

Representing Union

Sd/-  
(V. P. Kamath)  
General Secretary  
Lord Krishna Bank Employees Union  
Sd/-

Regional Labour Commissioner (Central), Cochin  
Dated: 25-1-1993.

नई दिल्ली 6 अप्रैल, 1993

का. आ. 815 :— औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय रिजर्व बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अविकरण, कोल्लम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 2 अप्रैल, 93 को प्राप्त हुआ था।

[संख्या एल 12011/17/92 आई आर (बी-III)]  
एस. के. जैन, डेस्क अधिकारी,

New Delhi, the 6th April, 1993

S.O. 815.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Kollam as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Reserve Bank of India and their workmen, which was received by the Central Government on the 2-4-93.

[No. L-12011/17/92-IR(B-III)]  
S. K. JAIN, Desk Officer

#### ANNEXURE

IN THE COURT OF THE INDUSTRIAL TRIBUNAL, KOLLAM

(Dated, this the 19th day of March, 1993)

PRESENT :

Sri C. N. Sasidharan Industrial Tribunal.

IN

INDUSTRIAL DISPUTE NO. 17/92

BETWEEN

The Manager, Reserve Bank of India, Reserve Bank Junction, Trivandrum 695 033.

(Sri. K. D. Zacharias, Asst. Legal Adviser,  
Reserve Bank of India)

AND

Sr. T. K. Thankachan, Secretary, Reserve Bank  
Employees Association, C/o Reserve Bank  
of India, Reserve Bank Junction, Trivand-  
rum 695 033.

(Sri. Raveendran, Secretary, Reserve Bank Em-  
ployees Association.)

### AWARD

This industrial dispute has been referred for ad-  
judication to this Tribunal by the Government of  
India as per Order No. L-12011/17/92-IR.B.III  
dated 1-6-1992.

The issue for adjudication is the following :

"Whether the action of the management of  
Reserve Bank of India, Trivandrum, in  
regularising the absence of employees on  
7-3-1991 from 1.00 P.M. onwards, as extra-  
ordinary leave without pay and allowances  
not counting for increment, vide office order  
staff No. 18 dated 22-7-1991, was justified?  
If not, to what relief the workmen are  
entitled to?"

2. The Reserve Bank Employees Association (the  
Assn. for short) representing the employees involved  
in this dispute has filed a detailed statement of claims  
and the contentions are briefly as under: This Asso-  
ciation represents Class III workmen of the Thiru-  
vananthapuram office of the management Bank. The  
management has been trying to introduce sophisticated  
computers in Thiruvananthapuram office since 1975  
onwards. The Association has been opposing the  
move apprehending threat to job security to the em-  
ployees. But the management went ahead with the  
proposal. Therefore the employees staged a walk  
out from 1 PM onwards on 7-3-1991 to protest  
against the action of management. The management  
as per order dated 22-7-1991 proposed wage cut  
for full day on 7-3-1991 to all workmen who had  
participated in the protest walkout. All the work-  
men affected by the order attended to their normal  
work from 8.45 A.M. to 1 P.M. on 7-3-1991. The  
banking hours of the management is 10 AM to 2  
PM on week days. In note examination sections  
and note verification section the management al-  
lotted half quota of a days work as usual and the  
workman had completed the allotted half quota of  
work. The work was in fact done by the workmen  
on 7-3-1991 and the bank accepted and acquiesced in  
it. According to the Association the order propos-  
ing wage cut is illegal and unjust. The prayer is  
for quashing that order and for appropriate relief.

3. The management opposes the case of the Asso-  
ciation. The contentions of management are briefly  
as under: There is no industrial dispute arising  
in this case for reference. The employees concerned  
were admittedly absent from work from 1 P.M. onwards  
on 7-3-1991 and the action of management for full  
day wage cut is fully in accordance with law. The  
workmen having agreed to work during the working

hours for the whole day cannot choose at their fancy  
to work only at certain hours. This is in breach of  
the contract of employment. The bank has been  
permitted to introduce computerisation and mach-  
inisation subject to the condition that there could be  
no retrenchment and that the displacement would be  
at the minimum. For providing better and effective  
service the bank had decided to introduce com-  
puterisation. On 7-3-1991 the employees had staged  
an illegal walkout from 1PM onwards and thereby  
the function of the Bank was adversely affected.  
The introduction of computer in the Bank has been  
implemented in accordance with Dighe Award. The  
order dated 22-7-1991 is valid and in accordance  
with law. The employees suddenly walked out leav-  
ing the work unfinished and there is no question of  
the Bank accepting or acquiescing the matter. The  
order of the Bank dated 22-7-1991 is fully supported  
by the decision of Supreme Court in Bank of  
India V. T. S. Klawal (1990 II LLJ 39). According  
to the management the claim of the union is without  
any merits and is liable to be dismissed.

4. No evidence has been adduced by the Asso-  
ciation. The management has examined one witness  
as MW1 and Exts. M1 to M3 have also been  
marked on their side.

5. The contention of the management Bank that  
there is no industrial dispute has not been sub-  
stantiated. It is not established how and in what  
way this reference is not maintainable as contended  
by the management. Therefore this preliminary  
objection is devoid of merit.

6. The only question emerging for consideration  
is whether the action of management Bank in pro-  
posing full wage cut in respect of the employees  
involved in this dispute is legal and justified. The  
employees in question staged a walkout in protest  
against computerisation on 7-3-1991 at 1 P.M. and  
thereafter they did not report for duty for the rest  
of the day. According to the management the action  
of the employees disrupted the work and paralysed  
the work of the Bank on that day and therefore the  
Bank is entitled to effect full day wage cut as per  
Ext. M1 circular dated 6-7-1988. The banking  
hours are from 10AM to 2PM. According to MW1,  
the management witness, the employees in this case  
worked upto 1 PM on that day. In cash department  
and note verification section there is quota system  
of work and the concerned employees in those sec-  
tions admittedly completed the morning quota of  
work allotted to them. In other counters the concerned  
employees worked upto 1 PM and it cannot be said  
that the Bank had not accepted or acquiesced in it.  
MW1 has deposed that there was no participation  
of employees in the public counter in the strike on  
that day and working of the cash public counters  
was not affected by the strike. There is also no  
evidence to show that there was any complaint from  
any quarter that the employees in question refused  
to render service till 1PM or that the walkout of  
the employees had paralysed the working of the  
Bank on that day. It is true that Exts. M1 to M3  
circulars fully empower the management in effecting  
full wage cut for causing disruption of work even  
for a part of the business hours. But the question  
here is whether full day wage cut is justifiable when

the workmen had done their work till 1PM which the Bank had accepted and acquiesced in.

7. Both sides placed reliance on a decision of the Supreme Court in Bank of India V. T. S. Kelawala and Others (1992 II LLJ 39). In that case the workmen resorted to four hours strike and thereafter they reported for work and the Bank did not prevent them from doing work. There was no work for the workmen to do after they reported for the work. Therefore they were not paid salary on that day. This decision has no direct application to the facts of this case before me as in the instant case the workmen discharged their duty till 11-30AM which was accepted by the Bank. However, the principles laid down by the Supreme Court in the above decision are applicable here. The observations made by the Supreme Court in para. 22, 23, 25, 26 and 28 are worth quoting as below :

22. "The principles which emerge from the aforesaid authorities may now be stated. Where the contract, Standing Orders or the service rules/regulations are silent on the subject, the management has the power to deduct wages for absence from duty when the absence is a concerned action on the part of the employees and the absence is not disputed. Whether the deduction from wages will be pro rata for the period of absence only or will be for a longer period will depend upon the facts of each case, such as whether there was any work to be done in the said period, whether the work was in fact done and whether it was accepted and acquiesced in, etc."

23. "It is not enough that the employees attend the place of work. They must put in the work allotted to them. It is for the work and not for their mere attendance that the wages/salaries are paid. For the same reason if the employees put in the allotted work but do not, for some reason may be even as a protest-comply with the formalities such as signing the attendance register, no deduction can be effected from their wages. When there is a dispute as to whether the employees attended the place of work or put in the allotted work or not, and if they have not, the reasons therefore etc. the dispute has to be investigated by holding an enquiry into the matter. In such cases, no deduction from the wages can be made without establishing the omission and/or commission on the part of the employees concerned".

25. "Apart from the aforesaid ratio of the decisions and the provisions of the Payment of Wages Act and similar statutes on the subject according to us, the relevant provisions of the major legislation governing the industrial disputes, viz., the Industrial Disputes Act, 1947 also lend their support to the view that the wages are payable pro rata for the

work done and hence deductible for the work not done. Section 2(rr) of the said Act defines "wages" to mean, "all remuneration.....which would, if terms of employment, expressed or implied, were fulfilled, be payable to workman in respect of his employment or work done in such employment....." while Section 2(q) defines "strike" to mean "cessation of work" or "refusal to continue to work or accept employment by workman". Reading the two definitions together, it is clear that wages are payable only if the contract of employment is fulfilled and not otherwise. Hence, when the workers do not put in the allotted work or refuse to do it, they would not be entitled to the wages proportionately."

26. .... "Whereas, therefore, a legal strike may not invite disciplinary proceedings, an illegal strike may do so, it being a misconduct. However, whether the strike is legal or illegal, the workers are liable to lost wages for the period of strike. The liability to lose wages for the period of strike. The liability to lose wages does not either make the strike illegal as a weapon or deprive the workers of it. When workers resort to it, they do so knowing full well its consequences. During the period of strike the contract of employment continues, but the workers withhold their labour, consequently, they cannot expect to be paid."

28. .... "The pro rata deduction of wages is not an unreasonable exercise of power on such occasions. Whether on such occasions the wages are deductible at all and to what extent will, however depend on the facts of each case. Although the employees may strike only for some hours but there is no work for the rest of the day as in the present case, the employer may be justified in deducting salary for the whole day. On the other hand, the employees may put in work after the strike hours and the employer may accept it or acquiesce in it. In that case the employer may not be entitled to deduct wages at all or be entitled to deduct them only for the hours of strike."

The High Court of Madras has considered a similar point as involved in the instant case in writ petition Nos. 10241/82 994 and 995/83, 4707, 4710 and 4925/81 (certified copy of the judgment has been produced here by the union). In the cases before the High Court of Madras mentioned above the Reserve Bank imposed wage cut in certain cases for the full day since the employees did not complete their work though they attended for work and partially completed their work. Relying on the above Supreme Court decision the High Court quashed the office orders and circulars imposing wage cut issued by the Reserve Bank of India and directed the Bank to impose pro rata wage cut in accordance with the judgment in Kelawala's case (supra)

8. It is clear from the above decisions that full day wage cut from the wages of employees who have attended their work till 1 PM is not justified. In the case before me the workmen admittedly reported for duty and continued their work till 1PM. There is no evidence before this Tribunal regarding the volume of work done by the workmen on that day. It is also not established that the work of the Bank for the whole day was disrupted on the day in question due to walkout of the workmen. The work done by the workmen till 1PM was accepted and acquiesced in by the management Bank. So in the light of the observations made by the Supreme Court quoted above there is no justification for regularising the absence of employees as extra ordinary leave without pay and allowances not counting for increment done by the management. Of course the management will be at liberty to deduct pro rata wages from the workmen on that day.

9. It was vehemently contended on behalf of the management that in this case the employees resorted illegal walkout after 1 PM on 7-3-1991 without any notice to the management and they did not report for duty after 1PM on that day and therefore the management is fully justified in effecting full day wage cut. Whether walkout is legal or illegal is not material. They have done work till 1PM which was accepted by the Bank. The workers are liable to lose wages for the period of walkout only as pointed out by the Supreme Court in paragraph 26 quoted above.

10 In the result, an award is passed holding that the action of the management Reserve Bank of India Trivandrum in regularising the absence of employees on 7-3-1991 from 1 PM onwards as extra ordinary leave without pay and allowance not counting for increment vide in office order No. 18 dated 22-7-1991 was unjustified. The workers are accordingly entitled to get pro rata wages on that day.

C. N. SASIDHARAN  
OF INDUSTRIAL TRIBUNAL

#### APPENDIX

Witness examined on the side of the Management  
MW 1. Sri N. M. Mani

Documents marked on the side of the management

Ext. M1. Photocopy of circular issued by the Central Office of the management Bank dated 6-7-1988.

Ext. M2. Photocopy of office order No. 32 issued by the Reserve Bank of India Trivandrum office dated 23-7-1988.

Ext. M3. Photocopy of office order No. 18 issued by the Reserve Bank of India Trivandrum office dated 22-7-1991.

नई दिल्ली, 6 अप्रैल, 1993

का.शा. 816.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबन्धन के संयुक्त नियोजकों और उनके कर्मचारियों के बीच अन्तर्विषय में निर्दिष्ट औद्योगिक

विवाद में औद्योगिक अधिकरण I हैदराबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 2 अप्रैल 1993 को प्राप्त हुआ था।

[संख्या एन-12012/267/85 डी-II(ए)]

एन. के. जैन, डेस्क अधिकारी

New Delhi, 6th April, 1993

S.O. 816.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal-I, Hyderabad, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of State Bank of India and their workmen, which was received by the Central Government on the 2nd April, 1993.

[No. L-12012/267/85 D II(A)]  
S. K. JAIN, Desk Officer.

ANNEURE  
BEFORE THE INDUSTRIAL TRIBUNAL-I AT  
HYDERABAD

Present :—Sri Y. Venkatachalam, M.A., B.L.,

Chairman  
DATED THE FOURTH DAY OF MARCH  
NINETEEN HUNDRED NINETY THREE  
I. D. No. 3 of 1987

BETWEEN :

The Workman of  
State Bank of India, Cuddapah (AP) .. Petitioner  
AND

The Management of  
State Bank of India, Cuddapah (AP) .. Respondent  
APPEARANCES : Sri D.S.R. Varma, Advocate for  
the Petitioner/workmen

M/s. K. SRINIVASAMURTHY & G. SUDHA,  
Advocates for Respondent/Management.

#### AWARD

This reference is referred by Government of India Ministry of Labour vide letter No. L-12012/267/85-D II(A) dated 19-1-1987 for adjudication of the dispute between the Management of State Bank of India, Cuddapah and their workman with the following Annexure :

"Whether the action of the management of State Bank of India in denying full-time employment in the Bank and also promotion as Daftry, Dafadar etc., to Shri S. Venkatappa Dwelling House Messenger, State Bank of India, Cuddapah is justified? If not to what relief the workman concerned is entitled?"

2. The above reference is registered as I. D. No. 3 of 1987 in this Tribunal. Notices were sent to both sides. The workman filed the claim statement wherein he stated that he entered the service of the Respondent Bank on 24-1-1951 as Dwelling House Messenger and he has been serving at Cuddapah Branch for over 34 years how without any blemish and to the entire satisfaction of the superiors. In spite of his long service he has not so far been considered

for any promotion in the Bank. The Union submits that following the implementation of recommendations of Pillai Committee standardising the conditions of Officers, Workmen in domestic service, mostly part-time employees, at the residences of Officers had been promoted as full-time messengers and brought into Offices for routine Bank work. It is submitted that Shri S. Venkatappa, who is senior most in service, has been discriminated, superceded and juniors to him have been elevated to full-time employment and further promoted to higher capacities, viz. Daffadar, Daftry etc. For example, when the Daffadar at Cuddapah Branch, Shri Khasim Khan, retired from service, in the resultant vacancy one Shri Kristam Raju, most junior to Shri Venkatappa, was promoted as Daffadar. It is further stated that the seniority of Shri S. Venkatappa for promotion to full-time employment to the posts of Daffadar, Daftry etc. has been ignored in spite of representations without assigning any reasons. Therefore the action of the Respondent Bank in not considering Shri S. Venkatappa for promotion is in violation of para 529 of Sastry Award and is illegal, unjustified and mala fide. Therefore directions may be given to the Respondent to treat Shri Venkatappa as promoted as due with retrospective effect to pay all the back wages and all attendant benefits.

3. On the other hand the management filed Reply statement wherein it is stated that the reference as made is not maintainable under law. This Tribunal has no jurisdiction to adjudicate the same. It may be noticed from the reference that what has been referred is the action of the management in denying full time employment to S. Venkatappa. It may be pointed out the claimant Sri S. Venkatappa has got full time employment and has been in full time employment to since May, 1953 and the question of reference on the alleged ground that the management denied full time employment to S. Venkatappa is not correct. The basic foundation on which reference being is not correct and factual the reference itself is vitiated. The next question is about the promotion of S. Venkatappa as Daftry/Dafadar etc. From the working of the reference it is seen that S. Venkatappa has been designated as Dwelling House Messenger. The designation given to him is not correct. He is a Dwelling House Servant. He does not go to the Bank at all. He stays at the residence of the Branch Manager and the question of he being called a Messenger does not arise. He is being paid the salary of a Messenger because the salaries are identical and they will get salary of a Messenger who belongs to subordinate cadre.

It is further stated in the Counter that the workman is Dwelling Housing Servant and as such he is not entitled for promotion of Dafadar. There are posts of Daftry/Dafadar at the residence of Branch Managers. There is only one person who is given Dwelling House Servant and not number of employees belong to various cadre or grades. It is not also a promotion from Messenger to Daftry. All belong to one cadre but in view of the designation as Daftry he gets certain additional allowance. So also in the case of Sub-staff. The designation is also given on the basis of seniority and it is also not the case of promotion. Minimum Qualification of Messenger is 7th class pass and he does not possess requisite quali-

fications and as such appointing him as Messenger does not arise. When he is not entitled to be appointed as Messenger in the branch the question of being designated as Dafadar does not arise. Therefore the petitioner is not entitled for any relief and the award may be passed accordingly.

4. On behalf of the workman W.W1 and W.W2 are examined and exhibits W1 is marked. On behalf of the Management M.W1 and M.W2 are examined and no document is marked. The evidence of W.W2 is as follows :

W. W2 is concerned workman who proved the contents of his claim statement. He stated that he joined the service of Imperial Bank of India in Jan., 1951 as Dwelling House Messenger in Cuddapah Branch. He worked at the residence of the Manager of the Bank and his juniors were given the post of Daftry/Dafadar. During the period he worked there are about 10 messengers working in the same branch. Some of the Dwelling House Messengers were given the post of daftry and dafadar as per the seniority. He was senior to the Dwelling House Messengers but he was not given the post of daftry/dafadar ignoring his seniority. He was retired in June, 1989 as Dwelling House Messenger and he was paid the retirement benefits of that post, and he was the concerned workman in this case. He was claiming the post of Dafadar as he is senior and he is entitled to get the post of dafadar and consequent benefits.

W. W1 gave evidence that he is working as Clerk in the State Bank of India at Vijayawada since 1961 and he is the General Secretary of the State Bank Employees Union of Andhra Pradesh and he was associated with the same union since 1964, who knew the workman and he is aware of the services of the workman. He further stated that the workman joined the service in 1951 as Dwelling House Messenger and the workman is entitled to get the post of Dafadar. He further stated that a committee appointed by the Government of India to standardise the services in the Banking Industry in the year 1977 which is known as Pillai Committee. On the Pillai Committee recommendations the domestic services at the residence of the Officer were withdrawn on certain grounds. He further gave evidence that the workman is eligible for promotion to the category of Sub-Staff and S. Venkatappa was full time employee as Dwelling House Messenger but he was denied the promotion to the post of Dafadar and the persons juniors to him were promoted. The representation of the S. Venkatappa to the respondent management was not considered. He raised a dispute before the Conciliation Officer and it is failed and they approached Government of India which referred the issue for adjudication of this Dispute.

5. M. W1 gave evidence that he was appointed as Clerk-cum-Typist in the Respondent Bank on 4-10-1971 and he was promoted as Officer on 31-10-1979 and now he was working as Officer Incharge (Staff) State Bank of India, Regional IV Zone Office, Tirupati and he is aware of the facts of the case of the workman. W. W2 worked as Dwelling House Servant at the residence of Branch Manager. The duties of the Dwelling House Servant are maintaining and upkeep of the residential premises of the Branch Manager. W. W2 was

attending those duties only at the residence of the Branch Manager and he was not attending any other work. The salary of the W. W2 was identical to that of the salaries that is paid to Messengers in the Bank. The Dwelling House Servants are not eligible for allowance carrying the posts like Daftaries and Dafedars. He further gave evidence that the duties of the Messengers in the Bank are to attend the work in the Bank like carrying of vouchers registers etc. The duties of the Dafedars are to open the tappals received, and put the date stamp on the tappals received and distribute the tappals to the concerned clerks as per the direction of the Branch Managers. There are rules framed for appointing Messengers and Dafedars and to make them eligible to draw the Special Allowances attached to the post of Dafedars. To convert the Messenger to the post of Dafedar one must be the senior most messenger working in that Branch and there was no minimum educational qualifications prescribed to work as Dafedar. W.W2 has no qualifications of Messenger to work as Dafedar. There is no truth in the allegation that Juniors to the workman were promoted as Dafedars.

M. W2 gave evidence that he is working as Manager of the Respondent Bank and he worked previously in the State Bank of India, Cuddapah and the dwelling house servants are attached to his residence, and 7th class Public Examination pass or the 8th class pass is the minimum educational qualification for recruitment of the messengers in the State Bank of India. While he was working in the Cuddapah Branch W. W2 worked as Dwelling House Servant at his residence. At the time W. W2 was not posed at any time to work in the Bank or he was exposed to the Banking work. The facility of providing dwelling house servants at the residences of the branch Managers were withdrawn. W. W2 studied upto 5th class only and he did not possess minimum requisite qualifications.

6. When the matter was posted for arguments the advocate for the workman did not appear before this Court and workman was also not present and nobody on their side. It is happened twice and the advocate for the respondent reported ready. Therefore the arguments of the advocate for the respondent are heard. The learned advocate for the respondent argued that it is an admitted fact that the workman in question is retired about 3 years ago. There is no post of Dafedar in the respondent Bank. In fact previously workman in question S. Venka'tappa worked as resident attendant or Dwelling House attender at the residence of the Branch Manager at Cuddapah. On the recommendations of the Pillai Award the facility of providing attendants at the residences of the Branch Manager were withdrawn. For the purpose of appointing Dafedar or Messenger for the respondent Bank the minimum qualification is pass in 7th class and the workman in question does not possess the minimum qualification of 7th class and he passed only 5th class. It is another significant aspect to note that the duties of the Dafedar are to receive the tappals and to put date stamp and also distribute among some clerks in the branch. The workman was not at all entrusted at any time with the duties of the Dafedars or any Bank works. He was entrusted with the task of attending at the residence. There is no truth in the allegation that the juniors of the workman in question were promoted to the cadre of Dafedar. Naturally the senior

most was entrusted with the task of Dafedar and there is no special pay or special difference category with the post of Dafedar to that of other Messengers.

The advocate for the respondent further argued that W. W2 who is no other than the workman gave evidence in this Tribunal he did not file any document to show that he passed 7th class and passed minimum requisite qualification for appointment of Dafedar and he also failed to place any documents to show that his juniors are promoted as Dafedars. Except Ex. W1 which is representation of the workman to the Regional Manager of the Respondent Bank dated 13-11-81. His representation was not received by the Bank. There is no proof to show that the receipt of the representation. The Ex. W1 does not bear seal, date of the respondent Bank. Therefore the workman is not entitled to get any relief and the award may be passed accordingly.

8. The point for consideration is whether there are any valid grounds to find that the action of the management of State Bank of India in denying full-time employment in the Bank and also promotion as Daftary, Dafedar etc., to Shri S. Venkatappa, Dwelling House Messenger, State Bank of India, Cuddapah is justified or not ?

9. At the very outset I would like to mention that the workman who raised this dispute appeared before this Tribunal and examined himself as W.W2. He proved the contents of his claim statement. He stated in his evidence that he was appointed originally in the year 1951 as Dwelling House Servant and he is attending the duties at the residence of Branch Manager. He also stated that although he was eligible for promotion as Dafedar but his claims were not considered by the Respondent Bank and juniors to him were promoted and provided with the job of Dafedar. Therefore the action of the management in not promoting as Dafedar is not justified and it is nothing but unfair labour practice and therefore award may be passed accordingly directing the respondent to appoint him as Dafedar and to pay consequential economic benefits from time to time till his retirement. There is absolutely no dispute with regard to the fact that for the post of Dafedar 7th class is minimum required qualification. It is significantly admitted fact that the workman in question passed only 5th class and he does not possess the minimum required qualification i.e. 7th class pass. Therefore he is not eligible. With regard to his appointment and nature of duties W. W2 the workman himself spoke in his evidence which was corroborated by M.W1 to the effect that the workman was appointed as Dwelling House Servant and entrusted in the task of attending work at the residence of the Branch Manager concerned. MW1 further gave evidence that the workman in question was not entrusted to the task to the office work in the Bank with the duties of the Dafedar in the Bank which is receiving the Tappals, affixing the date Stamp and also distributing Tappals to the concerned staff members on each day. The workman himself admitted that he was not entrusted with the task of the Dafedar at any time in the Bank. It is another significant aspect to note as seen from the rules and regulations in the respondent management, that there is no specific post of Dafedar with special cadre with enhancement of remuneration only senior most person

will be entrusted with the works of Dafedar and he was entrusted with the task of attending to the duties of dafedar. There is no proof before this Tribunal that juniors to the workman in question was promoted to the cadre of dafedar. I would like to further mention that the workman failed to place any documentary evidence before this Tribunal that he passed 7th class and his juniors were promoted as Dafedars. Therefore as seen from the material available on record it is absolutely clear that there is no point in favour of the workman and I do not see any merits in the reference.

10. In result I find that the action of the management of State Bank of India in denying full-time employment in the Bank and also promotion as Daftry, Dafedar etc., to Shri S. Venkatappa, Dwelling House Messenger, State Bank of India, Cuddapah is justified.

11. Award is passed accordingly.

Dictated to the Stenographer and Transcribed by him and corrected by me and given under my hand and seal of this Tribunal on this the 4th day of March, 1993.

Y. VENKATACHALAM, Chairman

#### Appendix of Evidence

Witnesses examined on behalf  
of the petitioner/workman

1. W. W1 G. Krishna Murthy
2. W. W2 S. Venkatappa

Witnesses examined on behalf  
of the Respondent/Management

1. M. W1 C. Mohan Rao
2. M. W2 D. Ramaiah

Documents marked for the petitioner/workman

1. Ex. W1 13-11-81.—Copy of the letter submitted by S. Venkatappa, Dwelling House Messenger to the Regional Manager, Regional-II, Tirupathi.

(Seal)

Documents marked for the Respondent/Management

NIL